



Planning Building & Development
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CITY OF ROANOKE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBER, NOEL C. TAYLOR MUNICIPAL BUILDING
October 14, 2015 – 1:00 p.m.
AGENDA

I. Call to Order and Welcome.

Welcome to the October 14, 2015, meeting of the City of Roanoke Board of Zoning Appeals. *Please turn off all cell phones, pagers and any other electronic, noise-making devices during the public hearing.* Each item will be heard separately and in the order in which it appears on the agenda.

If you wish to speak to any matter, the chair will recognize you in turn. Please approach the podium and state your name and residential address so that the secretary of the Board of Zoning Appeals may record the proceedings accurately.

II. Approval of Agenda: October 14, 2015

III. Approval of Minutes: September 9, 2015

III. Unfinished Business:

- A.** Application filed by Ern Reynolds, Trustee of Reynolds Living Trust, for property located at 2059 Westover Avenue, S.W., bearing Official Tax No. 1431811, zoned RM-1, Residential Mixed Density District, for a special exception pursuant to Section 36.2-405, Zoning, Code of the City of Roanoke (1979), as amended, to permit a homestay establishment.

IV. New Business:

- B.** Application filed by Lisa Frontus for property located at 5046 Williamson Road, N.W., bearing Official Tax No. 2190521, zoned MX, Mixed Use District, for a special exception pursuant to Section 36.2-315, Zoning, Code of the City of Roanoke (1979), as amended, to permit a group care facility, congregate home, elderly establishment.
- C.** Application filed by Gail Brown for property located at 3037 Cove Road, N.W., bearing Official Tax No. 2480106, zoned R-7, Residential Single-Family District, for a special exception pursuant to Section 36.2-311, Zoning, Code of the City of Roanoke (1979), as amended, to permit a family day home establishment.

- D. Application filed by Mary C. Dutilly for property located at 3127 Woodlawn Ave, S.W., bearing Official Tax No. 1560618, zoned R-7, Residential Single-Family District, for a special exception pursuant to Section 36.2-311, Zoning, Code of the City of Roanoke (1979), as amended, to permit a homestay establishment.

V. Other Discussion:



PLANNING BUILDING AND DEVELOPMENT

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October 14, 2015

Mr. Wayne Cundiff, Chairman and
Members of the Roanoke City Board of Zoning Appeals
Roanoke, Virginia

Dear Chairman and Members of the Board:

RE: Application filed by Ern Reynolds, Trustee of Reynolds Living Trust, for property located at 2059 Westover Avenue, S.W., bearing Official Tax No. 1431811, zoned RM-1, Residential Mixed Density District, for a special exception pursuant to Section 36.2-405, Zoning, Code of the City of Roanoke (1979), as amended, to permit a homestay establishment.

Recommendation

As presented, staff finds the request for a special exception to establish a homestay at the subject property is not appropriate and inconsistent with the City's Comprehensive Plan and the Greater Raleigh Court Neighborhood Plan and does not meet the standards for the granting of a special exception. Staff recommends denial of the special exception.

Respectfully submitted,

Jillian Papa Moore, AICP, CZA
Zoning Administrator

Application Information

Request:	Special Exception: Homestay
Owner:	Ern Reynolds, Trustee of Reynolds Living Trust
Applicant:	Ern Reynolds
Site Address/Location:	2059 Westover Ave, S.W.
Official Tax No.:	1431811
Lot Area:	0.1797 acres or 7829 square feet
Zoning:	RM-1, Residential Mixed Density District
Existing Land Use:	Dwelling, two-family*
Proposed Land Use:	Dwelling, two-family*, Homestay
Neighborhood Plan:	Greater Raleigh Court
Specified Future Land Use:	Residential Mixed Density

*Two-family dwelling is the legally established use. The previous, current and proposed uses of the property are unclear and may constitute violation of the zoning ordinance, as a *multifamily dwelling* is not permitted in the RM-1 district.

Background

The property owner proposes to use a portion of the second story of the existing two-story (excluding attic and basement), approximately 2,485 square foot (sf) primary structure as a homestay establishment.

A *homestay* is defined as “an establishment that offers for compensation a portion of any dwelling unit for overnight stays to guests, and not meeting the definition of a bed and breakfast.”

If approved, the homestay would be subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) No changes shall be made to the exterior of the building occupied by the homestay.*
- (2) The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.*
- (3) Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.*
- (4) The owner or leaseholder shall also occupy the dwelling unit during guest stays.*

A Zoning Administrator Determination¹ made as a result of a 2009 zoning

¹ In accordance with *Virginia Code § 15.2-2311*, since a timely appeal of the Zoning Administrator's decision was not filed before the

violation (reference file no. ZV090497) established the following:

- The use of the subject property as a multifamily dwelling is not permitted in the RM-1 district.
- The use of the subject property as a two-family dwelling was legally established and may continue in accordance with Section 36.2-709 of the zoning ordinance.
- Any intensification of use from a two-family dwelling, specifically, the addition of housekeeping units or conversion of portions of the building for the occupancy of more than two families is not permitted on the subject property and constitutes a violation of the zoning ordinance.

The subject property is currently occupied by a tenant on the first floor (1 dwelling unit) and the dwelling unit located on the second floor (2nd dwelling unit) is currently occupied by a different tenant. Additionally, the property owner, Mr. Reynolds, has also stated that he resides on the subject property from time to time.

According to the application narrative, the owner proposes to use a “2nd floor southwest corner bedroom and its full bathroom” for the homestay use, but “reserves the right to similarly employ a second bedroom and second bathroom at a later time if the initial entry into homestay operation is not too onerous”. The application narrative further describes multiple scenarios and configurations for the prospective homestay portion to be integrated with the second floor dwelling unit or the first floor dwelling unit, and possibly allowing access to the attic and basement.

Considerations

In evaluating the applicant’s request for a special exception, the Board shall determine the appropriateness of the application based on the standards set forth in Section 36.2-560(c).

Sec. 36.2-560. Special exceptions.

(c) Standards. In considering an application for a special exception, the Board of Zoning Appeals shall determine the appropriateness of the application based on the following standards:

- (1) The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures;

- (2) The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood;
- (3) The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor;
- (4) The use does not increase the flood potential in the surrounding neighborhood;
- (5) The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or to the specific use, whichever the case may be; and
- (6) The use furthers the intent of the City's Comprehensive Plan.

Surrounding Zoning and Land Use:

The land use within the vicinity of the subject property is summarized below and shown on zoning map excerpt enclosed as Attachment A.

<i>Direction from Property</i>	<i>Zoning District</i>	<i>Land Use²</i>
<i>North of subject property</i>	RM-1, Residential Mixed Density	multifamily dwelling
<i>East of subject property</i>	RM-1, Residential Mixed Density	single family dwelling
<i>South of subject property</i>	RM-1, Residential Mixed Density	single family dwelling
<i>West of subject property</i>	RM-1, Residential Mixed Density	two-family dwelling

Compatibility with the character and appearance of the surrounding neighborhood:

The Greater Raleigh Court neighborhood is located roughly 2 miles from downtown between the Wasena and Greater Deyerle neighborhoods. This portion of the neighborhood features a traditional, grid pattern of development with tree-lined streets and sidewalks. Most houses are two stories with a full-

² The existing land uses listed are derived from City GIS records and provided for information only. They have not been verified as meeting zoning requirements.

width front porch on the ground level.

The subject property is located on the northeast corner of Westover Avenue and Brunswick Street. The property is a corner lot consisting of approximately 7,826 square feet. While the subject property maintains a traditional basic form, massing, size and siting on the lot, a number of previous alterations have occurred that are generally inconsistent with the character of the surrounding properties on the street. These include the removal of a portion of the front porch and subsequent conversion to a carport/parking area, and the replacement of attic dormer windows with sliding doors and the installation of a metal ladder/fire escape on the front porch column. The property directly abuts single-family, two-family and multifamily residential properties. These previous alterations over time convey an appearance of multi-tenant occupancy rather than single-family occupancy.

According to testimony from neighbors, previous code enforcement history, and the application narrative, the property owner's intentions regarding the use of the property are unclear and may constitute a zoning violation; a multifamily dwelling (3 or more units) is not permitted on the subject property. The addition of a homestay use to the subject property, specifically, the keeping of up to four guests on a short-term basis, can potentially adversely affect the character of the property or surrounding area. These adverse effects may consist of excessive noise, traffic, demand on parking, and other public nuisances. In addition to the Special Exception process, one of the mechanisms used to help safeguard neighborhoods from potential adverse effects that the City has enacted are additional regulations set forth in Section 36.2-405(c) that are specific to the operation of a homestay. The application, as presented, does not fully and clearly comply with these standards.

Public Water and Sewer:

- *The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.*

It is not anticipated that the use of the subject property as a homestay would significantly or adversely affect demand on public water or sanitary sewer services.

Traffic:

- *The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic*

problem by virtue of driveway location, sight clearance, driveway slope, or other factor.

The potential affect to traffic generated by the proposed homestay is unclear at this time as the number of occupants and number of dwelling units is unclear.

Flood:

The subject property is not located within the 100-year floodplain nor would use as a homestay increase runoff from the site.

Conformity with setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance

The purpose of the residential mixed density zoning districts is to allow for a mix of single-family detached, single-family attached, two-family, townhouse, and multifamily dwellings in order to provide a range of housing choices.

- Setbacks, Size, Height: Does not apply. No changes are proposed as a result of this request.
- Lot frontage: The approximate 52 foot width of the lot exceeds the minimum required lot frontage (50 feet).
- Lot area: The lot contains 7,826 square feet which exceeds the minimum lot size of 5,000 square feet (there is no maximum lot size in the RM-1 District).
- Lot area per dwelling unit: The minimum lot area per dwelling unit is 3,500 square feet. (Section 36.2-312). The subject property is 7,826 square feet, which would permit up to two units on the property. It is unclear as to whether the property owner has maintained compliance and intends to continue to comply with this requirement.
- Parking: There is no parking requirement for a homestay establishment. The minimum required number of spaces for a two-family dwelling is 3 spaces, prior to taking available reductions for proximity to public transit and availability of on-street parking (Sec. 36.2-652(c) and (d)). It appears that there are two on-site parking spaces available. As there are two long-term lease tenants residing on the property, along with the property owner, it is presumed that on-street parking would need to accommodate the proposed four additional guests of the homestay.

- Landscaping/Trees: The minimum tree canopy requirement for an RM-1 lot is 15%. No development is proposed that would otherwise trigger compliance with this requirement.

If approved, the homestay would be further subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) *No changes shall be made to the exterior of the building occupied by the homestay.*

No changes to the exterior of the building are proposed.

- (2) *The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.*

As stated in the application narrative, it is unclear as to whether the applicant is specifically seeking approval for one bedroom and two guests at this time, or for approval to operate a homestay for two bedrooms with up to four guests at this time. The specified number of guests and the location of the rooms are important for the Board's consideration relative to determining compliance with the requirement that the owner or leaseholder occupy the dwelling unit during guest stays. As stated, it is unclear as to whether the configuration of guest rooms will join the homestay guest rooms with Unit 1 (first floor) or Unit 2 (second floor). Consequently, the responsible party (owner or leaseholder) will be difficult to determine and present an enforcement challenge to the City if the homestay becomes a nuisance. Additionally, a clear delineation of the area to be used as a homestay will be required to be inspected, as a Certificate of Occupancy for this area must be obtained prior to operation.

- (3) *Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.*

The applicant has stated that he will comply with this requirement, however, the applicant is also advertising for a long-term tenant, which is a violation of the zoning ordinance, as a multifamily dwelling is not permitted at this location.

- (4) *The owner or leaseholder shall also occupy the dwelling unit during guest stays.*

The homestay use provides an opportunity for a homeowner, or leaseholder to host traveling guests on a short-term basis in their home and charge a fee for it. Establishment of a homestay use requires that the homeowner or leaseholder (with the property owner's permission) also stay in the dwelling unit while

hosting guests. As the introduction of transient activity into the fabric of established neighborhoods often poses concern to adjoining property owners and residents, the intent of this requirement is to reduce the risk that the homestay use will become a nuisance to adjoining property owners, as the activity and behavior of those transient guests should be inherently monitored by those long-term residents also residing in, or sharing the same dwelling unit with their guests. Through application and issuance of a special exception, the City can establish a clear point of contact for the responsible party, should enforcement become an issue, and move to revoke the special exception, if necessary in accordance with Section 36.2-560(e).

The property owner has applied for the special exception to operate the homestay. According to conversations with the applicant and neighboring residents, the owner does not permanently reside at the subject property, and spends a significant amount of time out of state. The narrative suggests that one of the leaseholders of one of the dwelling units would assume responsibility of operation of the homestay, and, if necessary, a local relative will assume responsibility of the homestay if the tenant is not available. The property owner states in the application narrative, "I or my stand-in sub-tenant occupying the living unit must be there nearby the homestay space overnight, if only to scrub the bathroom and launder the sheets the next day." This is not what City Code allows.

Whether intended or not, the application is vague as it relates to providing a single responsibility party, and the statement above does not convey a meaningful commitment to actively supervise or monitor the short-term guests to protect the character of surrounding properties, as is the intent and purpose of the regulation.

Further the intent of the Comprehensive Plan:

Vision 2001-2020 sets forth the following policies, strategies, and recommended actions:

- *Neighborhoods as villages.* Neighborhoods will function as villages, offering opportunities to live, work, shop, play, and interact in a neighborhood setting. Neighborhood-oriented commercial activity will be encouraged in well-defined village centers (P. 40, policies).
- *Tourism.* Roanoke will promote tourism for the City and the region (p. 59, Policies).

The *Greater Raleigh Court neighborhood Plan*, adopted as a component of *Vision 2001-2020*, delineates the subject property as a single-family residential

future land use. Pertinent highlights from the Community and Residential Development portion of the plan include the following:

- Neighborhood Character: Protect Greater Raleigh Court's traditional character and its property values, upholding the neighborhood's desirability as a place for families and individuals to live (page 41).

Vision provides a general direction for neighborhoods as villages encourages opportunities to expand tourism within the City of Roanoke and more broadly in the Roanoke Valley. The neighborhood plan provides further direction related to the importance of protecting neighborhood character and property values in order to promote a high quality of life.

The application, as presented, does not demonstrate that the addition of a homestay use to a portion of the two-family dwelling is consistent with the specified policy of protecting traditional neighborhood character within the neighborhood plan. Further, it is not clear that the property owner has maintained compliance and intends to maintain compliance with the zoning ordinance pertaining to the number of legal dwelling units on the property, in addition to all of the supplemental regulations for a homestay use.

AUG 03 2015

Application accepted as submitted in accordance with the provisions of Chapter 36.2, Zoning, Code of the City of Roanoke (1979), as amended.

**CERTIFICATE OF TRADE NAME
INDIVIDUALS / SOLE OWNERSHIP**

In the City of Roanoke, I hereby certify in accordance with the provisions of §59.1-69 of the 1950 Code of Virginia as amended that I intend to conduct or transact business under the assumed or fictitious name of:

BnoB in Grandin Village

(Name of Business)

at 2059 Westover Avenue S.W. Roanoke VA 24015-2359

(Street Address)

(City) (State) (Zip Code)

Homestay operation per Roanoke City Council
enactment of July 6, 2015.

(Type of Business)

And that no other person has any interest of any kind in said business and that I am the sole owner and proprietor thereof.

My Post Office Address is:

1324 Brunswick Street S.W. Roanoke VA 24015-2229

My Residence address is:

1324 Brunswick Street S.W. Roanoke VA 24015-2229

I certify that the foregoing is true and correct to the best of my knowledge and belief. Given under my hand this 16th day of July, 2015.

Ern Reynolds, Trustee

Ern Reynolds, Trustee

(Signature)

Commonwealth of Virginia
City of Roanoke, to-wit:

Reynolds Living Trust

EIN# 54-6454375

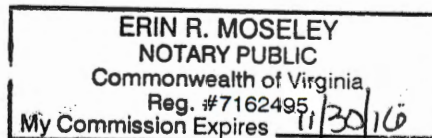
I, the undersigned Notary Public in and for the Commonwealth and City aforesaid, do hereby certify that Ern Reynolds, Trustee whose name is signed to the foregoing and hereunto annexed Certificate dated the 16th day of July 2015, has this day personally appeared before me and acknowledged the same before me in my office.

Erin R. Moseley

Notary Public

My Commission Expires: 11/30/2016

My registration number is: 7162495
CCR-140 Fictitious Name - Individual (Feb 2013)



Tax ID Number 54-6454375

Reynolds Living Trust

1324 Brunswick Street S.W.
Roanoke VA 24015-2229 USA
(540) 343-6717 or FAX 343-8117
(540) 874-6234 voicemail
E-mail is GateKeeper1@verizon.net

July 16, 2015

(1). Pre-filing conference with Zoning Administrator Jillian Papa Moore.

(2) (A). Application Form: Completed and signed by Owner / Applicant.

(2) (B) (a). Written Narrative: I'm beginning by seeking formal "homestay operation" status under the Roanoke City Council enactment of July 6, 2015. This is a matter of right under §36.2-405. But there is no mechanism to gain such formal written designation from the City other than to seek a Special Exception determination from the BZA.

As yet this date shown above I have made no contact with AirBnB or its 35+ competitors. Only if I find their terms no too onerous will I go forward. I will signal my assent by putting to record with the Circuit Court Clerk today's notarized Certificate of Trade Name, copy attached.

(2) (B) (b). As furnished to me this date verbally and in writing by Planning Administrator Ian D. Shaw, §36.2-405(c) has four written *Standards for Homestay Establishments* and a fifth dubious unstated rule legally suspect. In sequence they are:

(1) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.

(2) "The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four (4) total guests." AGREED. Initially I intend to put into homestay use only the 2nd floor southwest corner bedroom and its full bathroom. I reserve the right to similarly employ a second bedroom and second bathroom at a later time if the initial entry into homestay operation is not too onerous.

(3) "Rooms shall be rented only on a daily or weekly basis. Stays shall not exceed 14 days." AGREED; No deviation from this constraint is projected.

(4) "The owner [Reynolds Living Trust] or leaseholder [Ern Reynolds, Trustee and Master Tenant] shall also occupy the dwelling unit during guest stays." AGREED; I or my stand-in sub-tenant occupying a living space adjacent must be there nearby the homestay space overnight, if only to scrub the bathroom and launder the sheets the next day.

(5) UNSTATED RULE verbally from Mr. Shaw: The homestay space needs to be part of another dwelling unit in this multifamily building. AGREED; the second story floorplan attached indicates that the entire space as built is capable of several variable configurations. The full bath labeled C-2 has two passageway doors that allow connection with either the 2nd floor southwest corner bedroom, or to the 2nd floor southeast corner bedroom with the attic stairs. For the proposed overnight homestay use the easternmost bathroom door would stay visibly padlocked from inside.

BUT conceptually the 2nd floor southwest corner bedroom can fairly be considered a practical annex to the rest of the 2nd floor, or to the rest of the 1st floor at the bottom of the stairs one level, or to the rest of the basement at the bottom of the stairs two levels. As the Master Tenant I enjoy hardwired cable TV connections on all four floors. I have four landline phones. They are installed and working on all four floors, plus a usable fax line connection on all four floors.

My lease with the Sub-Tenant in the 2nd floor southeast corner bedroom specifies my right to enter at any hour. He is contractually a "casual" employee of the Reynolds Living Trust. As my sporadic stand-in he has been given a partial set of keys, along with duties to tend to the furnace and wi-fi transmitter should either need a reset when I'm away from the basement. The sheets and towels from the homestay space would be washed and dried in the basement. That sub-tenant's next level back-up for these chores is a beneficial owner (my nephew) who lives nine blocks away and who possesses a complete set of keys.

(2)(B)(c). Development Plan: The drawing-to-scale of the 2nd floor was rendered on the Owner/Applicant's laptop computer, using the software package FloorPlan 3D version 11. The top of the graphic is Due North. Because of multiple enlargements and reductions to fit document space the proportions remain true regardless of the scale output to hard copy.

(a) Ern Reynolds; Trustee/Master Tenant; this date shown above.

(b) 2059 Westover Avenue S.W.; Tax Map Number/Parcel ID 1431811.

(c) Recited at start of this ¶(2)(B)(c).

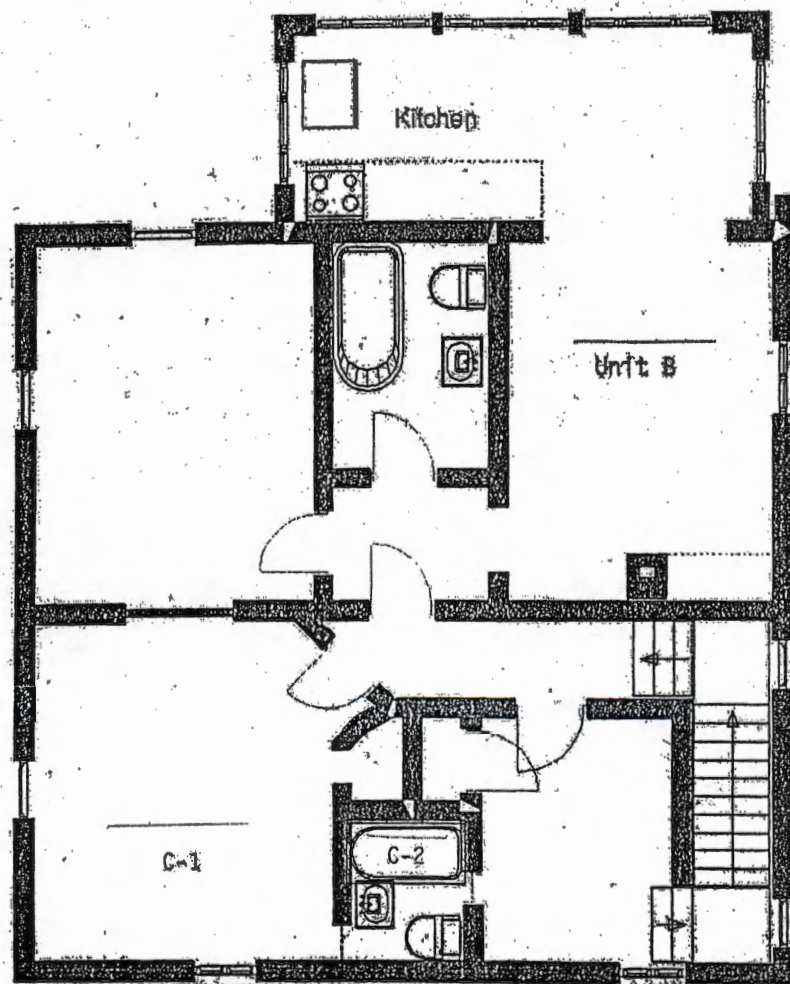
(d) Property Frontage 52'; Property Depth 150.00'; 7826 sq. ft.

- (e) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.
- (f) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.
- (g) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.
- (h) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.
- (i) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; None intended nor projected.
- (j) Inapplicable to the request.
- (k) Inapplicable to the request.
- (l) Inapplicable to the request.
- (m) "No changes shall be made in the exterior of the building occupied by the homestay." AGREED; none intended nor projected.

(2) (B) (d). Drawing of Any Proposed Building Addition.

"No changes shall be made in the exterior of the building occupied by the homestay." AGREED; none intended nor projected. Inapplicable to the request.

(2) (B) (e). Residential Filing Fee: \$100, due by August 13th for September 9th BZA Public Hearing.



Amendment to Application

2059 Westover Avenue SW

Received October 7, 2015

Combined responses of 2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds interleaved in Courier New 16 bolded typeface.

PLANNING BUILDING AND DEVELOPMENT --
Noel C. Taylor Municipal Building
215 Church Avenue, SW, Room 166
Roanoke, Virginia 24011
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September 9, 2015

Mr. Wayne Cundiff, Chairman and
Members of the Roanoke City Board of Zoning Appeals
Roanoke, Virginia

Dear Chairman and Members of the Board:

RE: Application filed by Ern Reynolds, Trustee of Reynolds Living Trust, for property located at 2059 Westover Avenue, SW., bearing Official Tax No. 1431811, zoned RM-1, Residential Mixed Density District, for a special exception pursuant to Section 36.2-405, Zoning, Code of the City of Roanoke (1979), as amended, to permit a homestay establishment.

Recommendation

As presented,

2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds hereby commit in writing to allay planning staff concerns, as follows.

staff finds the request for a special exception to establish a homestay at the subject property is not appropriate and inconsistent with the City's Comprehensive Plan and the Greater Raleigh Court Neighborhood Plan and does not meet the standards for the granting of a special exception. Staff recommends denial of the special exception.

Respectfully submitted,
Jillian Papa Moore, AICP, CZA
Zoning Administrator

Application Information

Request:	Special Exception: Homestay
Owner:	Ern Reynolds, Trustee of Reynolds Living Trust
Applicants:	Mark H. Heinlein & Ern Reynolds
Site Address/Location:	2059 Westover Ave, SW.
Official Tax No.:	1431811
Lot Area:	0.1797 acres or 7829 square feet
Zoning:	RM-1, Residential Mixed Density District
Existing Land Use:	Dwelling, two~family*
Proposed Land Use:	Dwelling, two~family*, Homestay
Neighborhood Plan:	Greater Raleigh Court
Specified Future Land Use:	Residential Mixed Density

* Two-family dwelling is the legally established use. The previous, current and proposed uses of the property are unclear and may constitute violation of the zoning ordinance, as a *multifamily dwelling* is not permitted in the RM-1 district.

This house was constructed in 1920. Beginning during World War II the present multifamily use was grandfathered as long in existence, prior to the adoption of any pertinent provision of either the City's Comprehensive Plan or the Greater Raleigh Court Neighborhood Plan; the latter was compiled in 2001 and will (according to its title) lapse into obsolescence after five more years.

Background

The property owner proposes to use a portion of the second story of the existing two-story (excluding attic and basement), approximately 2,485 square foot (sf) primary structure as a homestay establishment.

The City's recordkeeping is habitually faulty, as well as internally inconsistent. That pattern of official behavior leaves after-arrived staff like Jillian Papa Moore at a severe disadvantage. For example, on November 11, 2006 then-planning staff member Lisa C. Chittum

boosted 1st-&-2nd floor heated space up to the accurate figure of 3,448 square feet. Her calculation performed in the homeowner's presence was based upon the City's GIS drawing of the 1st floor footprint.

A homestay is defined as "an establishment that offers for compensation a portion of any dwelling unit for overnight stays to guests, and not meeting the definition of a bed and breakfast."

2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds have no intention of serving food or even coffee to any homestay guest. The several Grandin Village business establishments selling that sustenance are less than one block away. At least one is open at nearly all hours.

If approved, the homestay would be subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) No changes shall be made to the exterior of the building occupied by the homestay.
- (2) The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.
- (3) Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.
- (4) The owner or leaseholder shall also occupy the dwelling unit during guest stays.

As written, Sec. 36.2-405(c) (2) could be interpreted to allow four guests in one bedroom; we propose to limit them in practice to two per bedroom (by only providing double beds). The ordinance at Sec. 36.2-405(c) (1) could also prohibit any repairs to the exterior of the building once the homestay exception is granted and accepted by the homeowner; that consequence would be bad policy.

Fortunately the BZA members seem to all be familiar with the practicalities of the local real estate industry. Bear this dubious draftsmanship in mind when considering staff quibbles to follow.

2nd floor tenant/Homestay Manager Mark H. Heinlein is the leaseholder. He and property owner Ern Reynolds both fully satisfy all these requirements of the July 6th enactment. Any staff assertion to the contrary has no competent evidentiary support.

A Zoning Administrator Determination¹ made as a result of a 2009 zoning violation (reference file no. ZV090497) established the following:

¹ In accordance with Virginia Code § 15.2-2311, since a timely appeal of the Zoning Administrator's decision was not filed before the Board of Zoning Appeals by the property owner, the findings constitute a final decision, or a *thing decided*.

Wishful thinking not supported by the record. The Supremacy Clause of the U.S. Constitution in this instance rendered Virginia Code §15.2-2311 a sputtering irrelevancy. Nothing in 2009 ever reached Nancy C. Snodgrass or the BZA to decide. Planning Building and Development was ousted of jurisdiction by two cases initiated in federal courts, in which the City was represented by learned counsel. As matter of "gaming the rules", the City's legal representative chose not to file responsive pleadings on appeal. The resulting appellate opinion read as follows: "Affirmed by unpublished *per curiam* opinion. Unpublished opinions are not binding precedent in this circuit." Which means any other circuit or tribunal above or below was peremptorily advised to ignore this abruptly closed matter as well. It had been finessed but not fixed. The City got the case closed, without gaining a precedent upon which latter-day staff considering a different issue can rely. Homestay exemption under the new ordinance is different.

- The use of the subject property as a multifamily dwelling is not permitted in the RM-1 district.
- The use of the subject property as a two-family dwelling was legally established and may continue in accordance with Section 36.2-709 of the zoning ordinance.
- Any intensification of use from a two-family dwelling, specifically, the addition of housekeeping units or conversion of portions of the building for the occupancy of more than two families is not permitted on the subject property and constitutes a violation of the zoning ordinance.

This house was constructed in 1920. Beginning during World War II the present multifamily use was grandfathered as long in existence, prior to the adoption of any pertinent provision of either the City's Comprehensive Plan or the Greater Raleigh Court Neighborhood Plan.

The subject property is currently occupied by a tenant on the first floor (1 dwelling unit) and the dwelling unit located on the second floor (2nd dwelling unit) is currently occupied by a different tenant.

The 2nd floor tenant/Homestay Manager Mark H. Heinlein is the applicant here, along with property owner Ern Reynolds.

Additionally, the property owner, Mr. Reynolds, has also stated that he resides on the subject property from time to time.

"Home is where your wife is," says Ern Reynolds. I married a Jefferson High School classmate. She has lived in the same Manhattan apartment since August 1974, and continues to occupy it as her rent-stabilized dwelling. That's my voting address. Roanoke's charms do not compete well with a residence located twelve car lengths from Central Park, and three walkable blocks away from the Metropolitan Museum of Art. If you had the choice, which location would you prefer to live in most of the time?

She and I also stay together in the basement at 2059 Westover Avenue S.W. when either of us has reason to be in Roanoke. But New York rent stabilization requires its tenants to prove they are present under its roof a minimum of 184 days per year.

According to the application narrative, the owner proposes to use a "2nd floor southwest corner bedroom and its full bathroom" for the homestay use, but "reserves the right to similarly employ a second bedroom and second bathroom at a later time if the initial entry into homestay operation is not too onerous".

As yet I have not undertaken contact with and negotiations concerning airBnB terms, such as splitting proceeds from guest credit cards. But I am guided by the experiences related to me September 9th by the lady applicant brought to tears during the BZA hearing, Keisha Graziadei-Shup.

2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds hereby amend that earlier application narrative.

We now seek approval of the homestay exception, to run with the land, beginning October 14, 2015 and lapsing if not renewed within two years from that date. That approval shall apply to both 2nd floor bedrooms with their separate full bathrooms.

We can not go directly into this new airBnB venture the next morning after approval. airBnB demands may be too onerous. Furthermore, both bedrooms are presently unoccupied and empty of furniture. As can be seen from the floorplan drawing, the 2nd floor southwest corner bedroom and its full bathroom are each the smaller (compared to the northwest counterpart). That means the capital outlay to furnish it to airBnB standards would cost less to start.

The BZA seems unaware of how penetrating and privacy-invading the airBnB standards amount to in practice. But that firm's *vigilante usurpations* also provide comfort. For example, the first time a guest stays at an airBnB homestay room, the host the next day must send airBnB an electronic report on that guest's behavior and suitability for any future homestays. Such a surveillance report must be submitted before the host's percentage share of what the guest paid gets deposited to the host's checking account.

A personal private electronic dossier is created at airBnB for each guest, whose identity had been pre-verified by the credit card information that had to pass muster before the homestay occurred. Each and every subsequent paid homestay adds to the guest's electronic dossier; the host is obligated to make such a report promptly, before s/he will be eligible to receive any ensuing guest from airBnB. This holds no matter how many times previously the guest has been "measured" favorably. (The big corporate hospitality chains could never get away with such intrusive behavior.)

That unregulated unrestricted unapproved dossier follows an airBnB homestay guest - forever, and around the world. No governmental entity in a representative democracy could get away with such privacy-invading profiling surveillance (absent a warrant application and favorable court order instance by instance).

airBnB is an Internet-based matching engine that (for a fee paid in advance by the would-be guest's credit card) connects a room-letting host with a room-wanting guest. No financially incapable drunken reveler gets a second chance to repeat a performance that in any way a prior homestay host found offensive. This surveillance and

banning can be arbitrary and capricious in the extreme - and it's remarkably effective to disguise biased slurs against race, ethnicity, sexual orientation, and the other supposedly protected categories of humanity.

The application narrative further describes multiple scenarios and configurations for the prospective homestay portion to be integrated with the second floor dwelling unit or the first floor dwelling unit, and possibly allowing access to the attic and basement.

Apologies for any ambiguity in the application narrative. When the City officials ask searching privacy-invading questions on their forms they necessarily receive searching answers.

We seek two-year homestay approval for two 2nd floor bedrooms and their adjacent full bathrooms only, within the 14-day stricture of the July 6, 2015 City Council enactment.

A 14-day limitation negates most instances for which a homestay guest could reasonably use the kitchen and living room on the north side of the 2nd floor. Opening that up to guests would overburden the clean-up chores of 2nd floor tenant/Homestay Manager Mark H. Heinlein. So the better plan is to lock off the living room and kitchen altogether, from the northwest vestibule, bathroom, and bedroom. That's what's intended. A future tenant/homestay manager could conceivably live elsewhere in this large house besides the 2nd floor, and still be a looming presence to the homestay guest.

Considerations

In evaluating the applicant's request for a special exception, the Board shall determine the appropriateness of the application based on the standards set forth in Section 36.2-560(c).

Sec. 36.2-560. Special exceptions.

(c) Standards. In considering an application for a special exception, the Board of Zoning Appeals shall determine the appropriateness of the application based on the following standards:

- (1) The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures;
- (2) The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood;
- (3) The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor;
- (4) The use does not increase the flood potential in the surrounding neighborhood;
- (5) The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or to the specific use, whichever the case may be; and
- (6) The use furthers the intent of the City's Comprehensive Plan.

Surrounding Zoning and Land Use:

The land use within the vicinity of the subject property is summarized below and shown on zoning map excerpt enclosed as Attachment A.

Direction from Property	Zoning District	Land Use ²
North of subject property	RM-1, Residential Mixed Density	multifamily dwelling
East of subject property	RM-1, Residential Mixed Density	single family dwelling
South of subject property	RM-1, Residential Mixed Density	single family dwelling
West of subject property	RM-1, Residential Mixed Density	two-family dwelling

Compatibility with the character and appearance of the surrounding neighborhood:

The Greater Raleigh Court neighborhood is located roughly 2 miles from downtown between the Wasena and Greater Deyerle neighborhoods. This portion of the neighborhood features a traditional, grid pattern of development with tree-lined streets and sidewalks. Most houses are two stories with a full-width front porch on the ground level.

2 The existing land uses listed are derived from City GIS records and provided for information only. They have not been verified as meeting zoning requirements.

This recitation though true as far as it goes adds almost nothing. The Grandin Village area less than one block away from the subject property is itself a unique venue. Staff reporting on its high variety character would be far more relevant to BZA deliberations in this instance.

The subject property is located on the northeast corner of Westover Avenue and Brunswick Street. The property is a corner lot consisting of approximately 7,826 square feet. While the subject property maintains a traditional basic form, massing, size and siting on the lot, a number of previous alterations have occurred that are generally inconsistent with the character of the surrounding properties on the street. These include the removal of a portion of the front porch and subsequent conversion to a carport/parking area, and the replacement of attic dormer windows with sliding doors and the installation of a metal ladder/fire escape on the front porch column.

The "previous alterations" the staff is so belatedly complaining about date back as far as 1962! The carport and concrete-&-steel platform completely replaced a dangerously rotten wooden porch (of which the City has no record) .

The steel safety railings behind each dormer sliding window were added at your staff's insistence (of which the City has no record). When presented with the engineering specifications once installed so expensively under duress, then-planning staff member Neil Holland confessed that he had no way to store such documentary proof of either the City's compulsion or the owner's compliance!

Please consider very carefully just who could and should complain about the addition of a permanent steel fire escape ladder leading to the ground from the 2nd floor! If the planning staff has any grounds whatever to complain, does the basis for such ill-advised niggling rest upon aesthetics? Do you want the black iron painted white to match the gutters and soffits? The rest of the decorative supporting iron work across the entire front of the house is all painted black. What does all of this have to do negatively with the suitability for homestay designation? Lack of a fire escape would be a rational supportable reason to turn down such an application - so why denigrate having a fire escape in place?

The property directly abuts single-family, two-family and multifamily residential properties. These previous alterations over time convey an appearance of multi-tenant occupancy rather than single-family occupancy.

The City's own real estate assessment database has for decades listed the subject property to be (accurately, lawfully and correctly) coded "300 - Multifamily". The Virginia Supreme Court has decreed that a party like the City is not lawfully allowed to approbate and reprobate at one and the same time.

But that's exactly what happens when the municipality's internal records and recordkeeping conflict with each other. Matters resemble a "Potemkin Village" operation when significant material records are not preserved for reference and retrieval. Later-hired staff work at a great disadvantage, and understandably make mistakes.

According to testimony from neighbors, previous code enforcement history, and the application narrative, the property owner's intentions regarding the use of the property are unclear and may constitute a zoning violation;

This allegation itself is unclear, overbroad, and voidable for vagueness.

a multifamily dwelling (3 or more units) is not permitted on the subject property.

The City's own real estate assessment database has for decades listed the subject property to be (accurately, lawfully and correctly) coded "300 - Multifamily".

The addition of a homestay use to the subject property, specifically, the keeping of up to four guests on a short-term basis, can potentially adversely affect the character of the property or surrounding area. These adverse effects may consist of excessive noise, traffic, demand on parking, and other public nuisances. In addition to the Special Exception process, one of the mechanisms used to help safeguard neighborhoods from potential adverse effects that the City has enacted are additional regulations set forth in Section 36.2-405(c) that are specific to the operation of a homestay. The application, as presented, does not fully and clearly comply with these standards.

Our target markets to serve people who need convenient reasonably-priced homestay rooms are: (a) the CoLab less than a block away; (b) the Raleigh Court Healthcare & Rehabilitation Center three short blocks away; and (c) Roanoke/Salem's three big teaching hospitals through their platoons of on-staff social workers; the V.A. has over a hundred.

Short-stay visitors to (a), (b), or (c) with valid credit cards are not scum-of-the-earth types. To suggest that such people could ever lower adjacent property values is to engage in irrational speculation, without having any evidence-based support. Granting this homestay exception for a two-year trial period enhances (not detracts) from the advantages and ambience of Grandin Village.

Public Water and Sewer:

- The use does not create a demand on public water or sanitary sewer services that

exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.

It is not anticipated that the use of the subject property as a homestay would significantly or adversely affect demand on public water or sanitary sewer services.

Traffic:

- The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor.

The potential affect to traffic generated by the proposed homestay is unclear at this time as the number of occupants and number of dwelling units is unclear.

What's unclear about two bedrooms each housing a maximum of two persons for stays no longer than 14 nights? Your staff objections are wandering off into vaguer and vaguer territory. Another worse example follows.

During the September 9th BZA hearing, another homestay applicant already operating under airBnB limitations was reduced to tears by the unwarranted verbal probing, before gaining the homestay designation. The City's Zoning Administrator Jill Papa Moore amazed all present (including the BZA Board Members), as follows.

She announced that a certain zoning provision (§36.2-654(a)(1)) prohibits parking a vehicle atop grass. Apparently no allowance is made for the proliferation of Roanoke City streets that have no curb-&-gutter, no sidewalks, and no mid-block signage. The existing perpetual ongoing violations of this dubious ordinance are uncountable, and very susceptible to being voidable due to too-selective prosecution.

Restricting the teary applicant Keisha Graziadei-Shup described above based upon this save-the-grass ordinance is arbitrary and capricious in the extreme.

The relevance of this weepable spectacle to the present application is this. The intersection of Westover and Brunswick has eight sides. Two of the sides (on Westover) have signage prohibiting parking. All four Brunswick sides (including virtually the entire 1300 block on both sides) have no curb-&-gutter, no sidewalks, and no mid-block signage. The subject property is one block west of Grandin Road and one block south of Memorial Avenue. Brunswick Street is the overflow parking area for any popular Grandin Village event such as the attendees at parades, or fans of blockbuster movies. The rest of the time there is plenty of lawful empty parking spaces on Westover's 2000 block to handle a dribble of homestay guests. Parking overflow affects the 2100 block of Westover not at all.

Flood:

The subject property is not located within the 100-year floodplain nor would use as a homestay increase runoff from the site.

Conformity with setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance

The purpose of the residential mixed density zoning districts is to allow for a mix of single-family detached, single-family attached, two-family, townhouse, and multifamily dwellings in order to provide a range of housing choices.

- Setbacks, Size, Height: Does not apply. No changes are proposed as a result of this request.
- Lot frontage: The approximate 52 foot width of the lot exceeds the minimum required lot frontage (50 feet).
- Lot area: The lot contains 7,826 square feet which exceeds the minimum lot size of 5,000 square feet (there is no maximum lot size in the RM-1 District).
- Lot area per dwelling unit: The minimum lot area per dwelling unit is 3,500 square feet. (Section 36.2-312). The subject property is 7,826 square feet, which would permit up to two units on the property. It is unclear as to whether the property owner has maintained

compliance and intends to continue to comply with this requirement.

- **Parking:** There is no parking requirement for a homestay establishment. The minimum required number of spaces for a two-family dwelling is 3 spaces, prior to taking available reductions for proximity to public transit and availability of on-street parking (Sec. 36.2-652(c) and (d)). It appears that there are two on-site parking spaces available. As there are two longterm lease tenants residing on the property, along with the property owner, it is presumed that on-street parking would need to accommodate the proposed four additional guests of the homestay.
- **Landscaping/Trees:** The minimum tree canopy requirement for an RM-1 lot is 15%. No development is proposed that would otherwise trigger compliance with this requirement.

If approved, the homestay would be further subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) No changes shall be made to the exterior of the building occupied by the homestay.

No changes to the exterior of the building are proposed.

- (2) The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.

As stated in the application narrative, it is unclear as to whether the applicant is specifically seeking approval for one bedroom and two guests at this time, or for approval to operate a homestay for two bedrooms with up to four guests at this time. The specified number of guests and the location of the rooms are important for the Board's consideration relative to determining compliance with the requirement that the owner or leaseholder occupy the dwelling unit during guest stays.

2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds hereby amend that earlier application narrative.

We now seek approval of the homestay exception, to run with the land, beginning October 14, 2015 and lapsing if not renewed within two years from that date. That approval shall apply to both 2nd floor bedrooms with their separate full bathrooms.

As stated, it is unclear as to whether the configuration of guest rooms will join the homestay guest rooms with Unit 1 (first floor) or Unit 2 (second floor). Consequently, the responsible party (owner or leaseholder) will be difficult to determine and present an enforcement challenge to the City if the homestay becomes a nuisance.

2nd floor tenant/Homestay Manager Mark H. Heinlein and property owner Ern Reynolds hereby amend that earlier application narrative.

We now seek approval of the homestay exception, to run with the land, beginning October 14, 2015 and lapsing if not renewed within two years from that date. That approval shall apply to both 2nd floor bedrooms with their separate full bathrooms.

Additionally, a clear delineation of the area to be used as a homestay will be required to be inspected, as a Certificate of Occupancy for this area must be obtained prior to operation.

Does the City insist upon inspecting right away?
Spending the money to apply for the Certificate of Occupancy would be financially impractical until: (a) the homestay exception gets approved, which (b) would only then trigger signing up to be a host with airBnB, which (c) would at last justify the costs of re-painting the walls and placing furniture in the two presently vacant and empty bedrooms (one by one).

(3) Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.

The applicant has stated that he will comply with this requirement, however, the applicant has is also advertising for a long-term tenant, which is a violation of the zoning ordinance, as a multifamily dwelling is not permitted at this location.

Approving the homestay exception on October 14th would dissolve anything more to quarrel about, without curing the legal defects in the City's recordkeeping. A well-run homestay designation under airBnB aegis could furnish the owner more funds to satisfy costs of the mortgage,

utilities, maintenance, and improving the building's curb appeal than might long-term rental.

(4) The owner or leaseholder shall also occupy the dwelling unit during guest stays.

2nd floor tenant/Resident Manager Mark H. Heinlein fully qualifies.

The homestay use provides an opportunity for a homeowner, or leaseholder to host traveling guests on a short-term basis in their home and charge a fee for it. Establishment of a homestay use requires that the homeowner or leaseholder (with the property owner's permission) also stay in the dwelling unit while hosting guests. As the introduction of transient activity into the fabric of established neighborhoods often poses concern to adjoining property owners and residents, the intent of this requirement is to reduce the risk that the homestay use will become a nuisance to adjoining property owners, as the activity and behavior of those transient guests should be inherently monitored by those long-term residents also residing in, or sharing the same dwelling unit with their guests.

That's why both Heinlein and Reynolds are agreeable to having the October 14, 2015 approval lapse, if not renewed within two years from that date.

Through application and issuance of a special exception, the City can establish a clear point of contact for the responsible party, should enforcement become an issue, and move to revoke the special exception, if necessary in accordance with Section 36.2-560(e).

The property owner has applied for the special exception to operate the homestay.

He is formally joined in this revised application by 2nd floor tenant/Homestay Manager Mark H. Heinlein.

According to conversations with the applicant and neighboring residents, the owner does not permanently reside at the subject property, and spends a significant amount of time out of state. The narrative suggests that one of the leaseholders of one of the dwelling units would assume responsibility of operation of the homestay, and, if necessary, a local relative will assume responsibility of the homestay if the tenant is not available.

Or if the owner is not available.

The property owner states in the application narrative, "I or my stand-in sub-tenant occupying the living unit must be there nearby the homestay space overnight, if only to scrub the bathroom and launder the sheets the next day."

One or another Reynolds has owned the property since 1962, and across the generations we like it enough to keep it for living space ourselves. Ern Reynolds is now 74, and formally the master tenant. My nephew who is part owner living nine blocks away is 35. My friend Mark H. Heinlein at age 57 is a sober stable reliable conscientious 2nd floor tenant. He has plenty of carpentry skills as well as property management experience. He is willing to join in this family venture under airBnB constraints. But I can't require him to live here forever. A homestay exception running with the land raises the prospect that another stand-in might be required in the unknown future. It would be unreasonable to think otherwise.

Whether intended or not, the application is vague as it relates to providing a single responsibility party, and the statement above does not convey a meaningful commitment to actively supervise or monitor the short-term guests to protect the character of surrounding properties, as is the intent and purpose of the regulation.

Amendments to the application and representations made in writing here should be more than sufficient to put zoning staff quibbles and imaginative stretches to rest. Their diligence has exceeded what is due, or even lawful. As a retired U.S. Department of Justice lawyer I know what the Civil Rights Division would have made of what was asked at the September 9th hearing during which your legal counsel sat so silently by. All the vicious insensitive verbal probing about charity extended to a barely alive acquaintance in their economically marginal neighborhood was cringeworthy, demeaning and dignity depriving. When it comes to housing accommodations and restrictions upon a titleholder landlord, the law is very well settled.

Let's just say that the BZA's assertions of zoning staff jurisdiction and what is permissible to inquire about are ill-advised and exaggerated.

Further the intent of the Comprehensive Plan:

Vision 2001-2020 sets forth the following policies, strategies, and recommended actions:

The aspirational content of this document has less than five more years to run, before its own title suggests it will lapse into obsolescence.

- Neighborhoods as villages. Neighborhoods will function as villages, offering opportunities to live, work, shop, play, and interact in a neighborhood setting. Neighborhood-oriented commercial activity will be encouraged in well-defined village centers (P. 40, policies).
- Tourism. Roanoke will promote tourism for the City and the region (p. 59, policies).

The Greater Raleigh Court neighborhood Plan, adopted as a component of Vision 2001-2020, delineates the subject property as a single-family residential future land use. Pertinent highlights from the Community and Residential Development portion of the plan include the following:

- Neighborhood Character: Protect Greater Raleigh Court's traditional character and its property values, upholding the neighborhood's desirability as a place for families and individuals to live (page 41).

Vision provides a general direction for neighborhoods as villages encourages opportunities to expand tourism within the City of Roanoke and more broadly in the Roanoke Valley. The neighborhood plan provides further direction related to the importance of protecting neighborhood character and property values in order to promote a high quality of life.

The application, as presented, does not demonstrate that the addition of a homestay use to a portion of the two-family dwelling is consistent with the specified policy of protecting traditional neighborhood character within the neighborhood plan. Further, it is not clear that the property owner has maintained compliance and intends to maintain compliance with the zoning ordinance pertaining to the number of legal dwelling units on the property, in addition to all of the supplemental regulations for a homestay use.

Our target markets to serve people who need convenient reasonably-priced homestay rooms are: (a) the CoLab less than a block away; (b) the Raleigh Court Healthcare & Rehabilitation Center three short blocks away; and (c) Roanoke/Salem's three big teaching hospitals through their platoons of on-staff social workers; the V.A. has over a hundred.

Short-stay visitors to (a), (b), or (c) with valid credit cards are not scum-of-the-earth types. To suggest that such people could ever lower adjacent property values is to engage in irrational speculation, without having any evidence-based support.

Granting this homestay exception for a two-year trial period enhances (not detracts) from the advantages and high variety ambience of Grandin Village. It's a start-up effort in itself, that enables new people to pause long enough to enjoy the neighborhood. Both business and tourism are promoted thereby.



PLANNING BUILDING AND DEVELOPMENT

Noel C. Taylor Municipal Building
215 Church Avenue, SW, Room 166
Roanoke, Virginia 24011
540.853.1730 fax 540.853.1230
planning@roanokeva.gov

October 14, 2015

Mr. Wayne Cundiff, Chairman and
Members of the Roanoke City Board of Zoning Appeals
Roanoke, Virginia

Dear Chairman and Members of the Board:

**RE: Application filed by Lisa Frontus for property located at 5046
Williamson Road, N.W., bearing Official Tax No. 2190521, zoned
MX, Mixed Use District, for a special exception pursuant to
Section 36.2-315, Zoning, Code of the City of Roanoke (1979), as
amended, to permit a group care facility, congregate home,
elderly establishment.**

Recommendation:

Staff finds the request for a special exception to establish a group care facility, congregate home, elderly at the subject property is appropriate and consistent with the City's Comprehensive Plan and the Williamson Road Area Plan and meets the other standards for the granting of a special exception as listed below. Furthermore, the previous use of this property was non-conforming within the MX – Mixed Use District and the applicant's intended use will be conforming within this District upon special exception approval. The Staff recommends approval of the special exception.

Respectfully submitted,

Jillian Papa Moore, AICP, CZA
Zoning Administrator

Application Information

Request:	Special Exception: Group care facility, congregate home, elderly
Owner:	Cornerstone Real Estate Investing, LLC
Applicant:	Lisa Frontus
Site Address/Location:	5046 Williamson Road, N.W.
Official Tax No.:	2190521
Lot Area:	22,310 s.f.
Zoning:	MX
Existing Land Use:	Group care facility, congregate home
Proposed Land Use:	Group care facility, congregate home, elderly
Neighborhood Plan:	Williamson Road Area Plan
Specified Future Land Use:	Small & Medium Scale Commercial

Background

The applicant is proposing to establish a group care facility, congregate home for elderly clients with 15 rooms and a maximum occupancy of 30 residents. A plan showing the layout of rooms and amenities is included in the application. No exterior changes are proposed. The “Assisted Living Facility” will provide elderly residents with 24-hour personal care assistance in “a home-like environment in order to maintain their highest level of independence.” Daily care will include medication management, nursing care, therapy services, etc. Nursing medical care assistance will be provided through the outsourcing of home health companies. The facility will staff between 5-10 employees and is seeking to obtain a license through Virginia Department of Social Services.

A *Group care facility* is defined as a residential facility or dwelling unit housing persons unrelated by blood, marriage, adoption, or guardianship, including congregate homes, group care homes, halfway houses, nursing homes, and transitional living facilities. Group care facilities are further defined in sub-types, which include a *Congregate home*. A *congregate home* is defined as a group care facility providing accommodation and supervision to individuals or families where medical care is not a major element and including homes for orphans, foster children, veterans, victims of domestic violence including battered men, women or children, the elderly, pregnant teenagers, nonresident families of hospitalized patients, mentally handicapped or similar uses. The term *elderly* pertains to persons of age 55 or older.

The property is currently zoned MX, Mixed Use District and a group care facility, congregate home, elderly, is an allowable use in a MX, Mixed Use District only with a special exception granted by the Board of Zoning Appeals.

Considerations

In evaluating the applicant's request for a special exception, the Board shall determine the appropriateness of the application based on the standards set forth in Section 36.2-560(c).

Surrounding Zoning and Land Use:

The Surrounding Land Use Map enclosed as Attachment A provides details for zoning and land use within the vicinity of the subject property and is summarized below.

<i>Direction from Property</i>	<i>Zoning District</i>	<i>Land Use*</i>
<i>North of subject property</i>	CG, Commercial General	Financial Institution
<i>East of subject property</i>	ROS, Recreation and Open Space	Park
<i>South of subject property</i>	MX, Mixed Use	Medical Clinic
<i>West of subject property</i>	R-5, Residential Single-Family	Single Family Residential

* The existing land uses listed are derived from City GIS records and provided for information only. They have not been verified as meeting zoning requirements.

Compatibility with the character and appearance of the surrounding neighborhood:

Commercial development has traditionally located along the Williamson Road corridor and was mixed with residential development. Indeed, many residential structures remain along the corridor. Williamson Road steadily converted over to mostly commercial uses. The 1964 Development Plan for Roanoke showed that Williamson Road was nearly all commercial. By 1970, the southern end of Williamson Road was anchored by the Civic Center and Sears Town. To the north, Crossroads Mall was built at the intersection of Hershberger Road in 1961.

The property is located in a Mixed Use Development with a Women's Health Clinic abutting it to the south. No exterior modifications are proposed at this time. The existing building meets the character and appearance requirements, as it was built in accordance with the surrounding buildings.

Public Water and Sewer:

The proposed use will not create a significant change in demand on public water or sanitary sewer systems or exceed the design capacity of those systems.

Traffic:

The proposed use will not create a significant change in traffic levels on Williamson Road, or the adjacent streets that would exceed the design capacity of the street or create a dangerous

traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor.

Flood:

The subject property is not located within the 100-year floodplain. No additional impervious surface area is expected as part of the project.

Conformity with setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance

The purpose of the MX District is to accommodate residential uses, office uses, and support services within the same district. The intent of the district is that no retail sales uses be permitted and that the district facilitates a harmonious mixture of office and residential uses. The regulations of the district are intended to protect the character and scale of such a mixed-use development pattern by permitting low-intensity development at a scale that recognizes and respects residential patterns of development.

- Setbacks: The minimum front yard setback is ten feet and the maximum front yard setback is 30 feet. Side and rear setbacks are five feet and 15 feet respectively.
- Infill development requirement: The front yard requirement for infill development does apply in the MX zoning district, however, since the request is to establish a use within the existing structure, the requirement does not apply to this project.
- Lot area per dwelling unit: The minimum lot area per dwelling unit is 2500 square feet. (Section 36.2-312). The density requirement is not applicable to the proposed use.
- Lot frontage: The minimum frontage for the MX zoning district is fifty feet and there is no maximum lot frontage. The frontage for the subject property is approximately 180 feet.
- Lot area: The area the subject property is 24,650 square feet, which exceeds the minimum of five thousand square feet (there is no maximum).
- Parking: The minimum parking standard for a group care facility, congregate home, elderly, is 1 space per 3 rooms (or dwelling units). A minimum of five parking spaces are required and the subject property will be providing at least twelve. Maximum parking does not apply.

It is important to note that the previous use of this property *Group care facility, congregate home* was non-conforming within the MX – Mixed Use District, even under special exception. However, the applicant's intended use will be conforming within this District upon special exception approval.

Further the intent of the Comprehensive Plan:

Both Vision 2001-2020 and the Williamson Road Area Plan recognize the need for the redevelopment for existing uses and sites to serve the needs of citizens and to support health and human services. The type of development that occurs in this area during this time of transition is critical to the long term health of the neighborhood. Relevant policies and action items in the Comprehensive Plan include:

NH P5 Housing Choice. The City will have a balanced, sustainable range of housing choices in all price ranges and design options that encourage social and economic diversity throughout the City.

PE P9. Health and human service agencies. Roanoke will support a range of health and human services to meet the needs of Roanoke's citizens.

The need for quality services to elderly individuals is important to the City and is supported by the comprehensive plan.

The principal consideration is whether the proposed special exceptions are consistent with Vision 2001-2020 and the Williamson Road Neighborhood Plan. The existing structure is vacant and at one time, functioned as a group care facility, congregate home which was a non-conforming use. Upon approval of this special exception, the subject property will be conforming within its current zoning district.

Special Exception Application



ROANOKE

RECEIVED

AUG 27 2015

Planning Building and Development
Room 166, Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Phone: (540) 853-1730 Fax: (540) 853-1230

Application Checklist: ☐ Application Form
☐ Written Narrative
☐ Development Plan
☐ Elevation
☐ Filing Fee

Date: 8/24/15

Property Information:

Street Address: 5046 Williamson Rd Roanoke VA 24012

Official Tax No(s): 2190521

Size of Property (acres or square feet): 22,310 SF

Base Zoning District: Mx Overlay Zoning District: N/A

Request for a special exception as set forth in Section 36.2-315, Zoning, Code of the City of Roanoke (1979), as amended.

Briefly describe the special exception request:

Applicant is requesting exception to change from to Group care facility, Congregate home, elderly care facility.

Applicant Information:

Name: Lisa Frontus Phone Number: 540-467-3150

Address: 1125 Fairfax Ave Roanoke VA 24017 E-Mail: lisa.frontus@msn.com

Applicant's Signature: *Lisa Frontus*

Owner Information:

Name: Cornerstone Real Estate Investing, LLC Phone Number: 540-641-2989

Address: 1008 Mourning Dove Drive Blacksburg, VA 24060 E-Mail: reed.kennedy2@yahoo.com

Owner's Signature: *Reed Kennedy, President*

Application accepted as submitted in accordance with the provisions of Chapter 36.2, Zoning, Code of the City of Roanoke (1979), as amended.

Amcar
Secretary to the Board's Signature

8/27TH/15
Intake Date

Wednesday, October 14, 2015
Public Hearing Date

Lisa Frontus, MBA, OTR/L

5046 Williamson Rd

Roanoke, VA 24012

Hello,

I'm currently seeking Special Exception for property 5046 Williamson Rd. in Roanoke City, for zoning to include: group care facility, congregate home, elderly. I plan to utilize this property as an Assisted Living Facility for elderly individuals, 55 years of age and older. This property consists of 15 total bedrooms that will be utilized for 30 occupants.

My mission for this facility is to provide elderly residents with personal care assistance in a home like environment in order to maintain their highest level of independence. In doing such, 24 hours of assistance will be provided for daily care and medication management. This facility will also provide therapy services as needed for their residents. Additionally, nursing medical care assistance will also be provided, through the outsourcing of home health companies. In order to meet the needs of our residents, the facility will staff between 5-10 employees.

I believe this business model will be a great addition to Roanoke City. With the rapid rate of our elderly population, this facility will provide an affordable, caring, home like environment to individuals who may not have had other alternatives.

Six standards required:

1. The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures:

- This facility will meet the character and appearance requirement as it is a pre-existing establishment, built in accordance with surrounding buildings.
- No exterior changes will be made to the building; tenant may restripe parking lines in the parking lot
- Tenant plan to reface existing signage to include new business name
- Interior cosmetic improvements to be made

2. The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.

- This location has been utilized in the past as an assisted living facility and was fully occupied. No additional demand on public water or sanitary sewer services is projected.

3. The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slopes, or other factors:

- This establishment is not projected to generate increased nuisance of traffic. At least 12 parking spaces are available; only 5 parking spaces are required according to guideline standards.

4. The use does not increase the flood potential in the surrounding neighborhood.

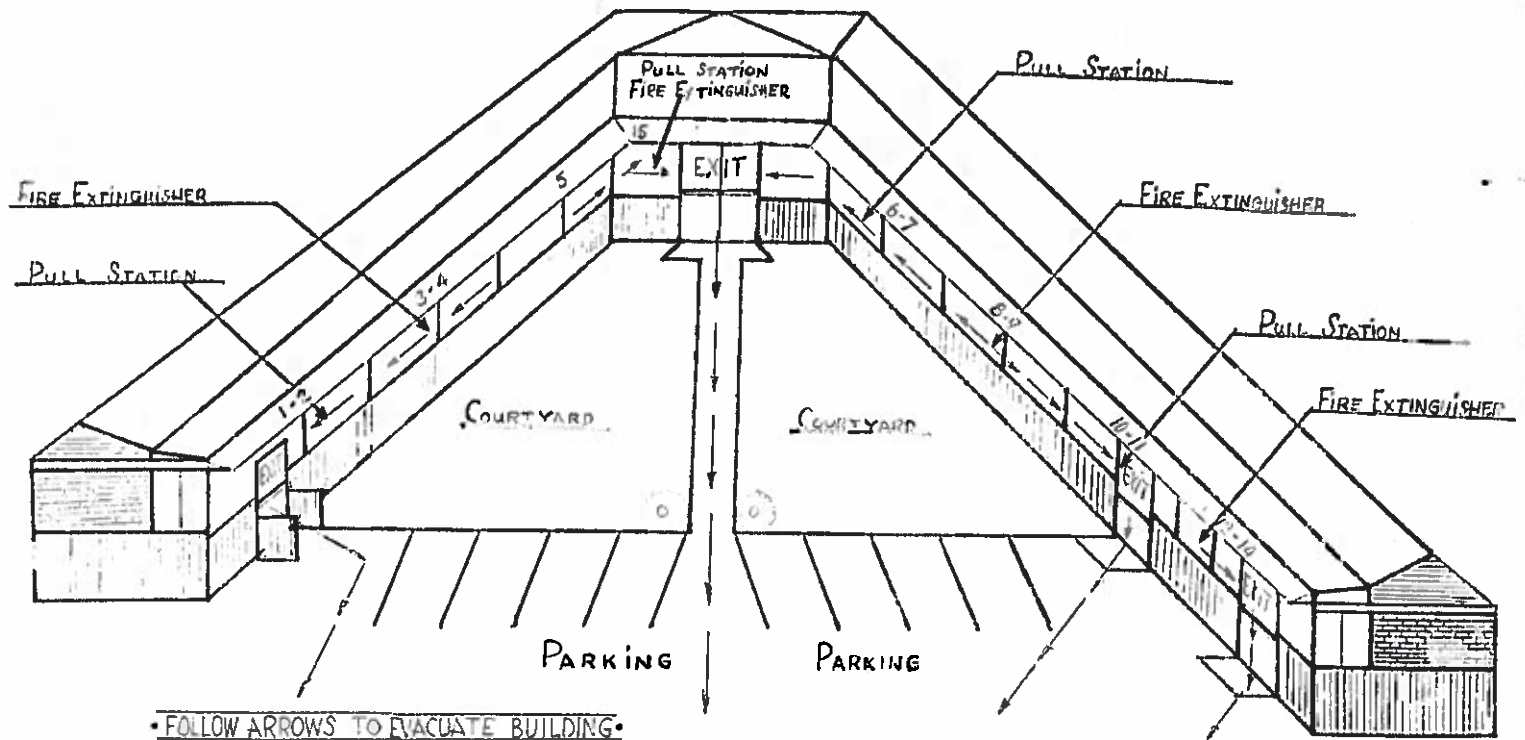
- This location does not increase the potential for flooding

5. The use is in conformation with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or the specific use, whichever the case may be:

- The location is in conformation with the setback, yard, frontage, lot area, parking, and signage based on neighboring establishments. The location is compatible with surrounding establishments as a Women's Health Clinic is located next door to this facility.

6. The use furthers the intent of the City's Comprehensive Plan.

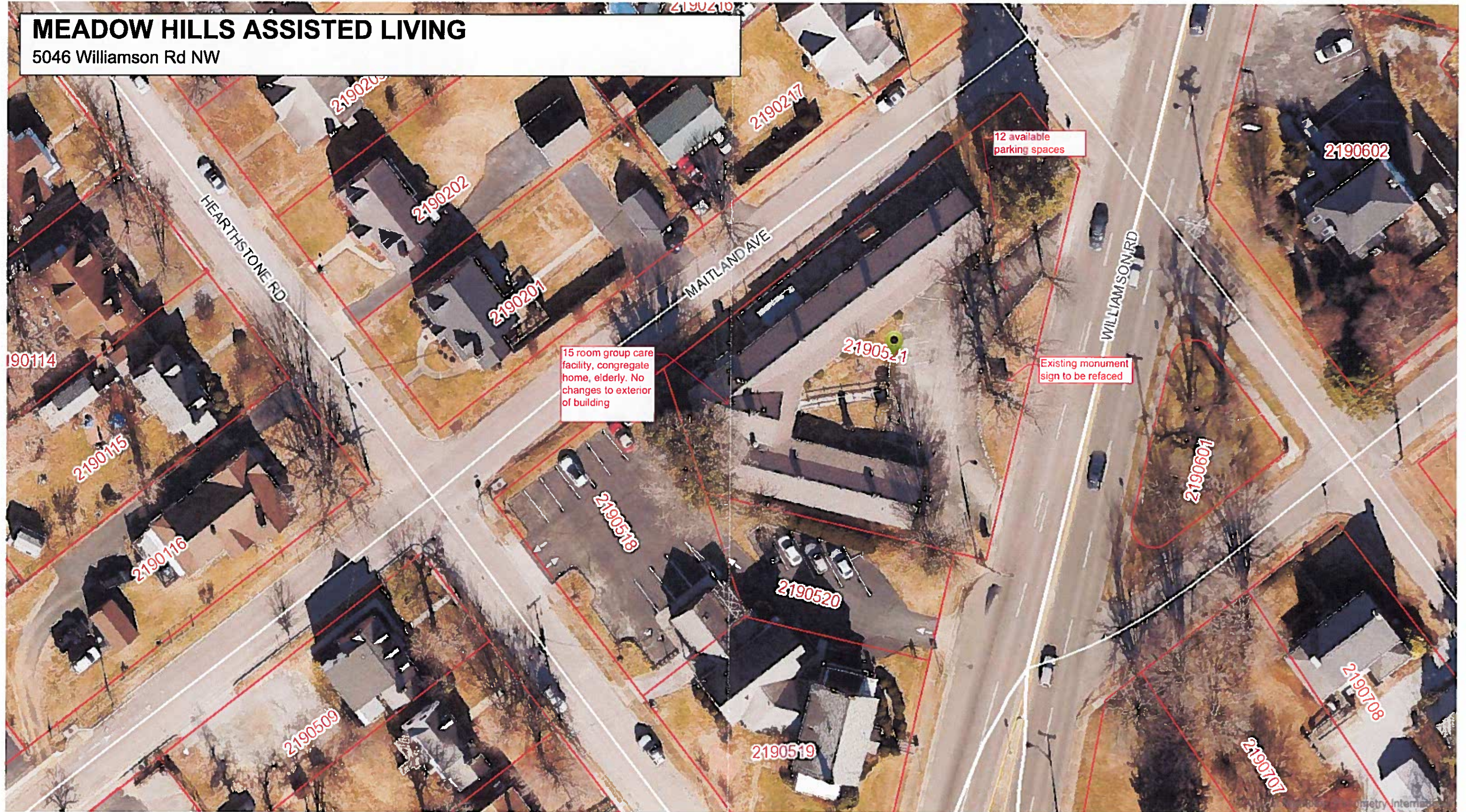
- In working in long-term care establishments over the last 10 years, I have noticed the growing need for our elderly population to have a caring and loving atmosphere that promotes dignity and independence. This facility will promote the City's Comprehensive Plan for the elderly as it will focus on providing excellence in care, while allowing individuals to age in a safe, comfortable and loving environment.



MONTICELLO MANOR

MEADOW HILLS ASSISTED LIVING

5046 Williamson Rd NW




























ATTACHMENT A

ZONING MAP EXCERPT

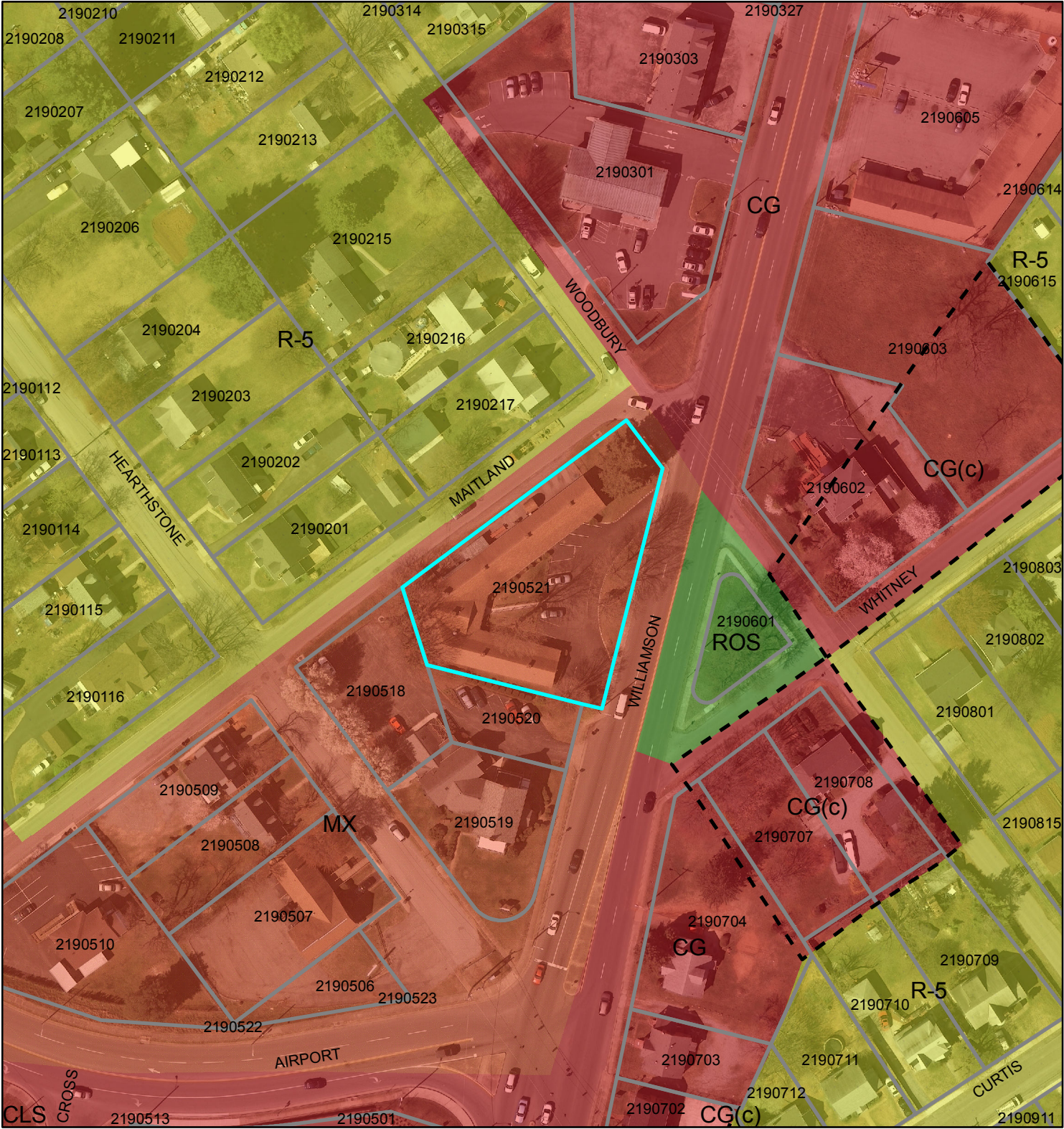
5046 WILLIAMSON RD

Legend

-  Subject Property
-  Conditional Zoning
- Base Zoning District**
 -  Residential-Agriculture, RA
 -  Residential Single-Family, R-12
 -  Residential Single-Family, R-7
 -  Residential Single-Family, R-5
 -  Residential Single-Family, R-3
 -  Residential Mixed Density, RM-1
 -  Residential Mixed Density, RM-2
 -  Residential Multifamily, RMF
 -  Mixed Use, MX
 -  Commercial-Neighborhood, CN
 -  Commercial-General, CG
 -  Commercial-Large Site, CLS
 -  Downtown, D
 -  Institutional, IN
 -  Recreation and Open Space, ROS
 -  Urban Flex, UF
 -  Light Industrial, I-1
 -  Heavy Industrial, I-2
 -  Airport Development, AD
 -  Mixed Use Planned Unit Development, MXPUD
 -  Institutional Planned Unit Development, INPUD
 -  Industrial Planned Unit Development, IPUD
 -  Floodplain Overlay, F

0 20 40 80 Feet

1 inch = 100 feet





PLANNING BUILDING AND DEVELOPMENT

Noel C. Taylor Municipal Building
215 Church Avenue, SW, Room 166
Roanoke, Virginia 24011
540.853.1730 fax 540.853.1230
planning@roanokeva.gov

October 14, 2015

Mr. Wayne Cundiff, Chairman and
Members of the Roanoke City Board of Zoning Appeals
Roanoke, Virginia

Dear Chairman and Members of the Board:

**RE: Application filed by Gail Brown, on behalf of Garden of Prayer
Number Seven Church, for property located at 3037 Cove Road,
N.W., bearing Official Tax No. 2480106, zoned R-7, Residential
Single-Family District, for a special exception pursuant to Section
36.2-311, Zoning, Code of the City of Roanoke (1979), as
amended, to permit a family day home establishment.**

Recommendation:

Staff finds the request for a special exception to establish a family day home at the subject property is appropriate and consistent with the City's Comprehensive Plan and the Fairland / Villa Heights Neighborhood Plan and meets the other standards for the granting of a special exception as listed below. Staff recommends approval of the special exception.

Respectfully submitted,

Jillian Papa Moore, AICP, CZA
Zoning Administrator

Application Information

Request:	Special Exception: Family Day Home
Owner:	Garden of Prayer #7 Church
Applicant:	Gail Brown
Site Address/Location:	3037 Cove Road, N.W.
Official Tax No.:	2480106
Lot Area:	44,722 s.f.
Zoning:	R-7
Existing Land Use:	Single Family Residential, Religious
Proposed Land Use:	Family Day Home
Neighborhood Plan:	Fairland / Villa Heights Neighborhood Plan
Specified Future Land Use:	Single Family Residential

Background

The applicant is proposing to establish a family day home in a property that the applicant has leased from a church (Garden of Prayer #7 Church), which abuts the property to the west. The applicant lives in the home and is currently keeping 5 children during the day, but is applying for this special condition so that she can keep up to 12 children, under the definition of a *Family Day Home*.

A *Family Day Home* is defined as a child day program offered in the residence of the provider or the home of any of the children in care for six (6) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation.

The property is currently zoned R-7, Residential Single Family and *family day home* is an allowable use in a R-7, Residential Single Family District only with a special exception granted by the Board of Zoning Appeals

Considerations

In evaluating the applicant's request for a special exception, the Board shall determine the appropriateness of the application based on the standards set forth in Section 36.2-560(c).

Surrounding Zoning and Land Use:

The Zoning Map enclosed as Attachment A provides details for zoning and land use within the vicinity of the subject property and is summarized below.

<i>Direction from Property</i>	<i>Zoning District</i>	<i>Land Use</i>
<i>North of subject property</i>	R-7, Residential Single Family	Single Family Residential
<i>East of subject property</i>	R-7, Residential Single Family	Single Family Residential
<i>South of subject property</i>	R-7, Residential Single Family	Single Family Residential
<i>West of subject property</i>	INPUD, Institutional Planned Unit Development	Place of Worship

Compatibility with the character and appearance of the surrounding neighborhood:

Fairland is a newer neighborhood, with most homes built since the 1950s. Most of Fairland's land area contains single-family detached dwellings on medium to large lots. Most of the residential dwellings in Fairland were built as single-family dwellings between 1950s and 1970s. Since the early 1980s, new single-family housing development has been sparse, while there was an increase in multifamily development.

Since the existing structure will not be changing with regard to its exterior, the building will retain the character and appearance of the surrounding neighborhood.

The applicant has stated in the application that there will be no signage installed. A fenced play area will be installed at the rear of the property at a later date.

Public Water and Sewer:

The proposed use will not create a significant change in demand on public water or sanitary sewer systems or exceed the design capacity of those systems.

Traffic:

The proposed use will not create a significant change in traffic levels on Patterson Avenue, SW, or the adjacent streets that would exceed the design capacity of the street or create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor.

Flood:

The subject property is not located within the 100-year floodplain. No additional impervious surface area is expected as part of the project.

Conformity with setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance

The purpose of the R-7 District is to protect residential neighborhoods, to provide a range of housing choices, and to incorporate neighborhood principles, including lot frontages, building setbacks and densities, that are customary in urban and suburban neighborhoods.

- Setbacks: The minimum front yard setback is 20 feet and there is no maximum front yard setback. Side and rear setbacks are three feet and 15 feet respectively.
- Infill development requirement: The front yard requirement for infill development does apply in the R-7 zoning district; however, since the request is to establish a use within the existing structure, the requirement does not apply to this project.
- Lot area per dwelling unit: The minimum lot area per dwelling unit is 7,000 square feet. (Section 36.2-312). The lot area per dwelling unit for the subject property is 44,722 square feet, well within the regulations.
- Lot frontage: The minimum frontage for the R-7 zoning district is sixty feet and there is no maximum lot frontage. The frontage for the subject property is approximately 130 feet.
- Lot area: The area of the subject property is 44,722 square feet, which exceeds the minimum of five thousand square feet (there is no maximum).
- Parking: The minimum parking standard for a *family day home* is not explicitly defined within *Table 652-2. Required Parking Spaces*. However, since a *day care center, child* is a very similar use in its everyday function to a *family day home*, an interpretation of a *day care center, child* minimum parking requirement could be applied to the subject property. This requirement states that there should be one (1) parking space required per eight (8) children as permitted by maximum occupancy. In this case, the minimum required parking spaces would be two (2). The applicant has stated in her application that there is sufficient parking on the property for three (3) cars, with additional spaces on the abutting property to the east for overflow parking.

Further the intent of the Neighborhood and Comprehensive Plans:

The Villa Heights / Fairlawn Neighborhood Plan recommends a series of policies and actions that are consistent with the applicant's intended use of this property and the application for special exception.

Community Design Actions:

- Roanoke will encourage development of Fairland and Villa Heights as a mixed traditional and suburban neighborhood model prescribed by Vision 2001-2020. Compatibility between diverse uses will be encouraged through quality design.

Residential Development

- Roanoke will encourage the Fairland and Villa Heights neighborhoods to be mixed-use urban neighborhoods with opportunities for housing, employment, and services for all ages, races, and incomes.
- Collaborate with community organizations and housing developers to find ways to maintain and increase home ownership in the neighborhoods.

Economic Development

- Support, retain, and expand business development that is compatible with neighborhood character and scale.
- Ensure good relationships between residential and commercial development through thoughtful site and building design and landscaping.

Quality of Life

- Encourage neighborhood churches to coordinate efforts to improve the quality and range of outreach services.

The intended use of the property also meets the goals and objectives as put forth in the City's Vision 2001-2020 as they are listed below:

NH P2. Neighborhoods as villages. Neighborhoods will function as villages, offering opportunities to live, work, shop, play, and interact in a neighborhood setting.

The principal consideration is whether the proposed special exception is consistent with Vision 2001-2020 and the Villa Heights / Fairlawn Neighborhood Plan. It is the opinion of the Staff that the proposed use of a *family day home* would meet the standards set forth in these documents.

20150013

Special Exception Application



Planning Building and Development
Room 166, Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Phone: (540) 853-1730 Fax: (540) 853-1230

Application Checklist:

- ☐ Application Form
- ☐ Written Narrative
- ☐ Development Plan
- ☐ Elevation
- ☐ Filing Fee

Date: 9-10-2015

Property Information:

Street Address: 3037 Cove Road NW Roanoke, Va 24017

Official Tax No(s): 2480106

Size of Property (acres or square feet): 44,722 SF

Base Zoning District: R-7 Overlay Zoning District: N/A

Request for a special exception as set forth in Section 36.2-311, Zoning, Code of the City of Roanoke (1979), as amended.

Briefly describe the special exception request:

Family Day Home - Keeping up to 12 children

Applicant Information:

Name: Gail Brown Phone Number: 703-244-2012

Address: 3037 Cove Road NW Roanoke, Va 24017 E-Mail: Gail.Brown@VFBC-Roanoke.org

Applicant's Signature: Gail Brown

Owner Information:

Name: Garden of Prayer #1 Church Phone Number: 563-4244 X.1

Address: PO Box 6304, Roanoke, Va 24017 E-Mail:

Owner's Signature: Shalock Brown, Jr. Pastor

Application accepted as submitted in accordance with the provisions of Chapter 36.2, Zoning, Code of the City of Roanoke (1979), as amended.

Secretary to the Board's Signature

Intake Date

Public Hearing Date

Narrative:

The Providence House has developed a STEM based program for children that is based on my background in technology. I have spent over 20 years in technology and recently one year in child development. I have a master's degree in administration and am working on my doctoral degree in organizational leadership. I believe my background is geared to children and leading a daycare that can grow.

I chose this house to use as a daycare because of its natural outdoor setting and indoor space. There are five areas that will be for the children and two bathrooms. I currently keep up to five children and am working with the Department of Social Services to obtain a license for a Family Day Home to keep up to 12 children. I currently lease the property from Garden of Prayer No. 7 and I have access to their parking area and I can use the church as auxiliary space when the weather is bad outside.

Special Exception Standards:

1. The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures;

There is no development proposed. No signage will be installed. A fenced play area will be constructed at the rear of the property at a later date.

2. The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood;

No additional demand on public water or sewer is anticipated.

3. The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slopes, or other factors;

Drop off will range from 6am to 9am in the morning, and pick-up will be from 5:30 pm to 11 pm. This will add up to 12 trips for drop-off and 12 trips for pick-up, which can be supported by Cove Road.

4. The use does not increase the flood potential in the surrounding neighborhood;

The proposed use will not increase flood potential. The property is not located in a flood zone.

5. The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or to the specific use, whichever the case may be; and

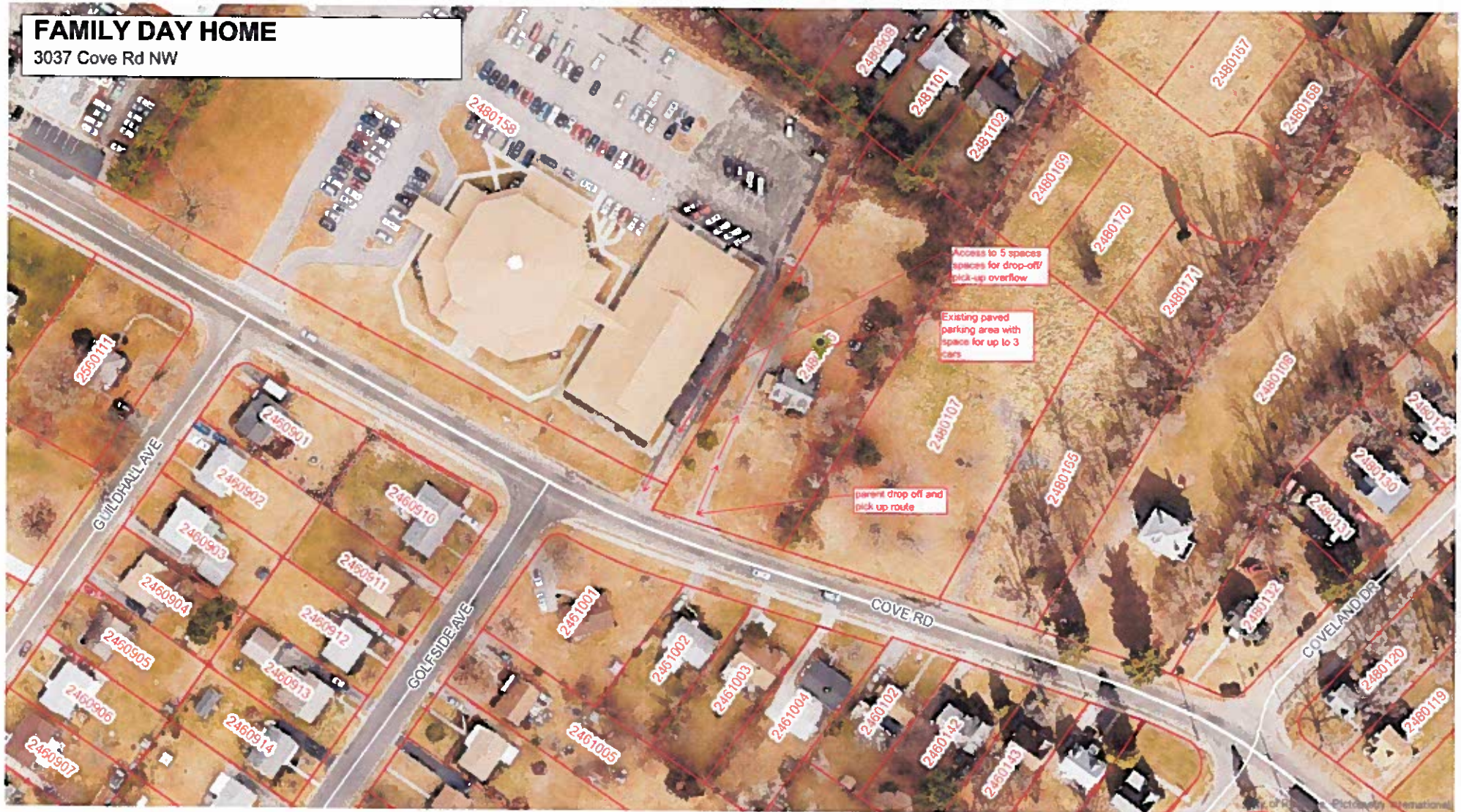
There is no development proposed. No signage will be installed. A fenced play area will be constructed at the rear of the property at a later date. I have up to two in-home assistants for the day care that

would park on the property. I have one car, so the total number of cars expected to be parked on the property is 3; I have a large parking area, driveway and access to the parking area for the adjoining church, Garden of Prayer no. 7, who has agreed to let me use their parking area, should it be necessary.

6. The use furthers the intent of the City's Comprehensive Plan.

The in-home day care is conveniently located for working parents who are drivers and also on the bus route. Because we offer extended hours, we are able to serve working families who may otherwise not be able to find a safe, reliable place for their children.

3037 Cove Rd NW





Photos of family day home - 3037 Cove Rd NW
Google to: jillian.moore@roanokeva.gov

09/10/2015 05:02 PM



Sent from my iPhone



Google to: jillian.moore

09/10/2015 05:07 PM





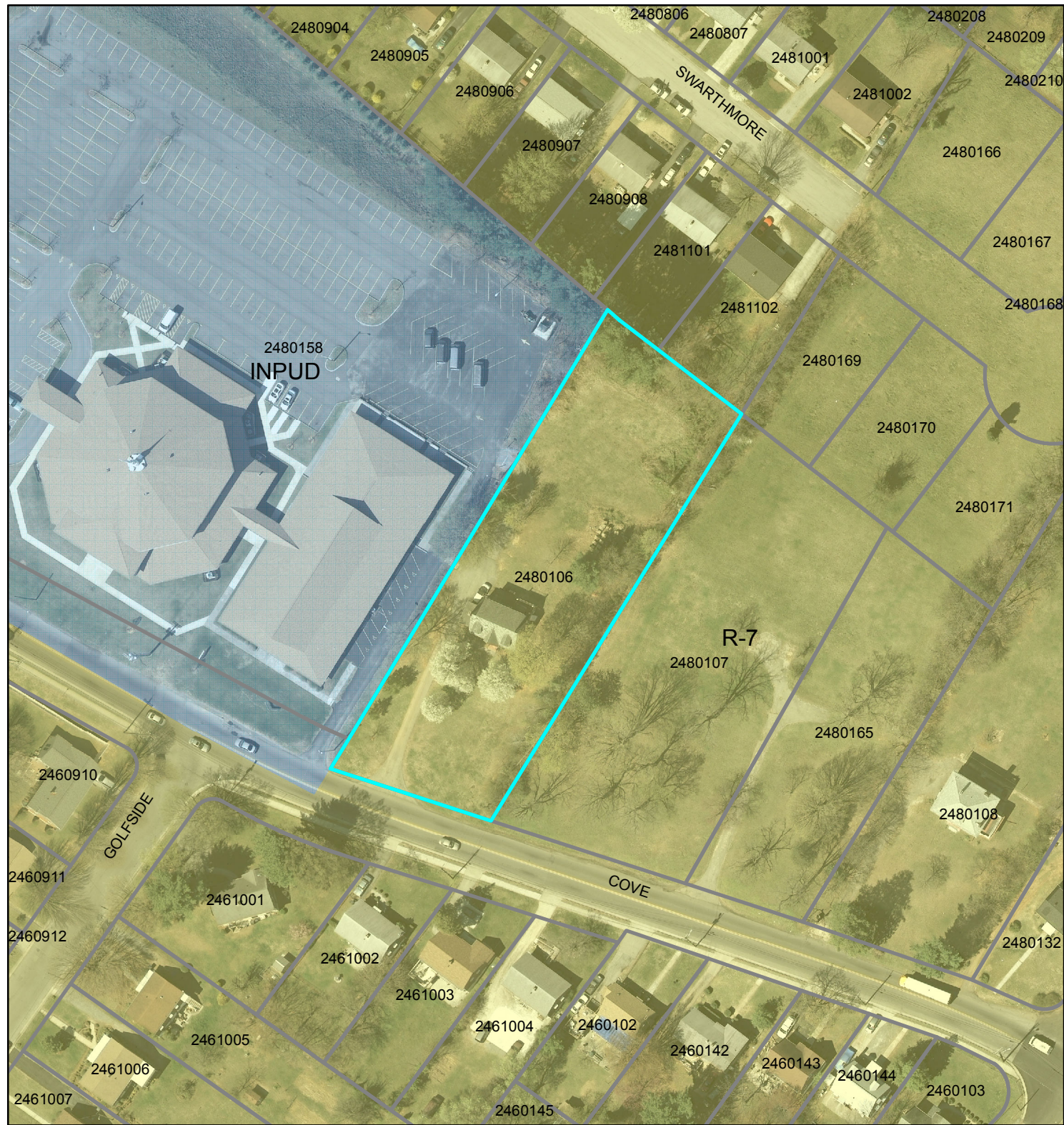
Sent from my iPhone

ATTACHMENT A ZONING MAP EXCERPT 3037 COVE RD. NW

Legend

- Subject Property
- Conditional Zoning
- Base Zoning District**
- Residential-Agriculture, RA
- Residential Single-Family, R-12
- Residential Single-Family, R-7
- Residential Single-Family, R-5
- Residential Single-Family, R-3
- Residential Mixed Density, RM-1
- Residential Mixed Density, RM-2
- Residential Multifamily, RMF
- Mixed Use, MX
- Commercial-Neighborhood, CN
- Commercial-General, CG
- Commercial-Large Site, CLS
- Downtown, D
- Institutional, IN
- Recreation and Open Space, ROS
- Urban Flex, UF
- Light Industrial, I-1
- Heavy Industrial, I-2
- Airport Development, AD
- Mixed Use Planned Unit Development, MXPUD
- Institutional Planned Unit Development, INPUD
- Industrial Planned Unit Development, IPUD
- Floodplain Overlay, F

0 20 40 80 Feet
1 inch = 100 feet





PLANNING BUILDING AND DEVELOPMENT

Noel C. Taylor Municipal Building
215 Church Avenue, SW, Room 166
Roanoke, Virginia 24011
540-853-1730 fax 540-853-1230
planning@roanokeva.gov

October 14, 2015

Mr. Wayne Cundiff, Chairman and
Members of the Roanoke City Board of Zoning Appeals
Roanoke, Virginia

Dear Chairman and Members of the Board:

RE: Application filed by Mary C. Dutilly for property located at 3127 Woodlawn Ave, S.W., bearing Official Tax No. 1560618, zoned R-7, Residential Single-Family District, for a special exception pursuant to Section 36.2-311, Zoning, Code of the City of Roanoke (1979), as amended, to permit a homestay establishment.

Recommendation

Staff finds the request for a special exception to establish a homestay at the subject property is appropriate and consistent with the City's Comprehensive Plan and the Grandin Court Neighborhood Plan and meets the other standards for the granting of a special exception. Staff recommends approval of the special exception, subject to the following conditions:

1. The homestay operation shall be limited to two guest bedrooms with a maximum occupancy of four guests.
2. A Certificate of Occupancy for the area devoted to the homestay use shall be obtained from the Planning, Building & Development Department prior to operation of the homestay.
3. The homestay operation shall maintain compliance with all of the supplemental regulations set forth in Section 36.2-405(c) of the zoning ordinance.
4. The special exception shall expire 24 months from the date of the issuance of the certificate of occupancy for the homestay use, and may be reconsidered by the Board upon application by the applicant for an extension within that period of time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jill", enclosed within a rectangular box.

Jillian Papa Moore, AICP, CZA
Zoning Administrator

Application Information

Request:	Special Exception: Homestay
Owner:	Mary C. Dutilly & Brooke J. Overby
Applicant:	Mary C. Dutilly
Site Address/Location:	3127 Woodlawn Ave. SW
Official Tax No.:	1560618
Lot Area:	0.3203 acres or 13,952 square feet
Zoning:	R-7, Residential Single-Family District
Existing Land Use:	Dwelling, single-family
Proposed Land Use:	Dwelling, single-family; homestay
Neighborhood Plan:	Grandin Court
Specified Future Land Use:	Residential Single Family

Background

The property owner proposes to use two of their home's existing three bedrooms for short-term vacation rentals. The two bedrooms (and a full bath) are located on the first floor of the house. The property owner has agreed to stay in the second floor bedroom when the house is being rented. The two bedrooms could potentially allow for up to four guests. The owner has noted that no on-street parking will be required to accommodate these guests. An aerial photograph submitted by the applicant (Attachment B) of the lot shows an existing rear parking area behind the house that can accommodate up to six cars.

A *homestay* is defined as "an establishment that offers for compensation a portion of any dwelling unit for overnight stays to guests, and not meeting the definition of a bed and breakfast."

If approved, the homestay would be subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) No changes shall be made to the exterior of the building occupied by the homestay.*
- (2) The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.*
- (3) Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.*
- (4) The owner or leaseholder shall also occupy the dwelling unit during guest stays.*

Considerations

In evaluating the applicant's request for a special exception, the Board shall determine the appropriateness of the application based on the standards set forth in Section 36.2-560(c).

Sec. 36.2-560. Special exceptions.

(c) Standards. In considering an application for a special exception, the Board of Zoning Appeals shall determine the appropriateness of the application based on the following standards:

- (1) The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures;
- (2) The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood;
- (3) The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor;
- (4) The use does not increase the flood potential in the surrounding neighborhood;
- (5) The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or to the specific use, whichever the case may be; and
- (6) The use furthers the intent of the City's Comprehensive Plan.

Surrounding Zoning and Land Use:

The land use within the vicinity of the subject property is summarized below and shown on zoning map excerpt enclosed as Attachment A.

<i>Direction from Property</i>	<i>Zoning District</i>	<i>Land Use¹</i>
<i>North of subject property</i>	R-7, Residential Single-Family	Single family dwellings
<i>East of subject property</i>	R-7, Residential Single-Family	Single family dwelling
<i>South of subject property</i>	R-7, Residential Single-Family	Single family dwelling
<i>West of subject property</i>	R-7, Residential Single-Family	Single family dwelling

Compatibility with the character and appearance of the surrounding neighborhood:

The Grandin Court Neighborhood is a well-defined residential community, with most of the homes built between 1920 and 1960 on undulating topography. Grandin Court began development in 1926. The area became a part of Roanoke through annexations in 1926 and 1943.

The Grandin Court neighborhood displays a median 1950s housing stock with a strong mix of historic Cottage, Bungalow, and American Foursquare styles popular during the 1920s and 1930s. The northeast residential area has a uniform grid street pattern, while the remaining streets follow the topography.

Grandin Court developed in three stages. About half of the current houses were first constructed in the northeastern corner during the 1920s. They remain in good condition and attractive today with their brick construction and pleasing environment. After World War II and through the 1950s, the former "J.P. Woods Lands" to the west, developed into the Spring Valley subdivision featuring one-story brick and frame Ranch style houses. Rich varieties of house types from the 1920s and 1950s perch on the steeper hills to the south of Brambleton Avenue. By the 1960s, housing development leveled off.

The subject property is an example of a 1920s-era, 1.5-story, Tutor-revival home. The property is an interior lot consisting of approximately 13,952 square feet. The property maintains a traditional form, massing, size and siting on the lot, and is consistent with the character of the surrounding properties on the street. The property directly abuts single-family dwellings.

¹ The existing land uses listed are derived from City GIS records and provided for information only. They have not been verified as meeting zoning requirements.

The addition of a homestay use to the subject property, specifically, the keeping of up to four guests on a short-term basis, can potentially adversely affect the character of the property or surrounding area. These adverse effects may consist of excessive noise, traffic, demand on parking, and other public nuisances. In addition to the Special Exception process, one of the mechanisms used to help safeguard neighborhoods from potential adverse effects that the City has enacted are additional regulations set forth in Section 36.2-405(c) that are specific to the operation of a homestay. The application has satisfied these conditions and staff has further recommended conditions of approval to ensure that the operation of the homestay use is compatible with the character of the surrounding neighborhood.

Public Water and Sewer:

- *The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.*

It is not anticipated that the use of the subject property as a homestay would significantly or adversely affect demand on public water or sanitary sewer services.

Traffic:

- *The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope, or other factor.*

The establishment of a homestay with no more than four guests at this location should not significantly impact traffic beyond what would otherwise be generated by a family occupying the single-family dwelling.

Flood:

The subject property is not located within the 100-year floodplain nor would use as a homestay increase runoff from the site.

Conformity with setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance

The purpose of the residential single-family zoning districts is to protect residential neighborhoods, to provide a range of housing choices, and to incorporate neighborhood principles, including lot frontages, building setbacks and densities, that are customary in urban and suburban neighborhoods.

- Setbacks, Size, Height: Does not apply. No changes are proposed as a result of this request.
- Lot frontage: The approximate 100 foot width of the lot exceeds the minimum required lot frontage (60 feet).
- Lot area: The lot contains 13,952 square feet which exceeds the minimum lot size of 7,000 square feet (there is no maximum lot size in the R-7 District).
- Lot area per dwelling unit: The minimum lot area per dwelling unit is 7,000 square feet. (Section 36.2-312).
- Parking: There is no parking requirement for a homestay establishment. The minimum required number of spaces for a single-family dwelling is 1.5 spaces, prior to taking available reductions for proximity to public transit and availability of on-street parking (Sec. 36.2-652(c) and (d)). There is a driveway accessed from Woodlawn Ave. that runs the length of the lot and accesses a large rear parking lot with ample parking for this use.
- Landscaping/Trees: The minimum tree canopy requirement for an R-7 lot is 20%. No development is proposed that would otherwise trigger compliance with this requirement.

If approved, the homestay would be further subject to supplemental regulations found in Section 36.2-405 of the zoning ordinance as listed below.

Sec. 36.2-405(c) Standards for homestay establishments.

- (1) *No changes shall be made to the exterior of the building occupied by the homestay.*

No changes to the exterior of the building are proposed.

- (2) *The homestay shall have no more than two (2) bedrooms for guests and shall accommodate no more than four guests.*

According to the applicant's description of use within their application, the applicant proposes to use no more than two bedrooms to host no more than four guests at one time within the single-family dwelling. A Certificate of

Occupancy for this area must be obtained prior to operation.

- (3) *Rooms shall be rented only on a daily or a weekly basis. Stays shall not exceed 14 days.*

Staff has recommended conditions of approval to ensure that homestay use requirements of an operational nature can be adequately monitored and enforced by the City.

- (4) *The owner or leaseholder shall also occupy the dwelling unit during guest stays.*

The homestay use provides an opportunity for a homeowner, or leaseholder to host traveling guests on a short-term basis in their home and charge a fee for it. Establishment of a homestay use requires that the homeowner or leaseholder (with the property owner's permission) also stay in the dwelling unit while hosting guests. As the introduction of transient activity into the fabric of established neighborhoods often poses concern to adjoining property owners and residents, the intent of this requirement is to reduce the risk that the homestay use will become a nuisance to adjoining property owners, as the activity and behavior of those transient guests should be inherently monitored by the long-term resident(s) also residing in, or sharing the same dwelling unit with their guests. Through application and issuance of a special exception, the City can establish a clear point of contact for the responsible party, should enforcement become an issue, and move to revoke the special exception, if necessary, in accordance with Section 36.2-560(e).

The property owner has applied for the special exception to operate the homestay. The owner does not reside at the subject property, and within the specified dwelling unit that is the subject of the special exception application. Again, staff has recommended conditions of approval to ensure that homestay use requirements of an operational nature can be adequately monitored and enforced by the City.

Further the intent of the Comprehensive Plan:

Vision 2001-2020 sets forth the following policies, strategies, and recommended actions:

- *Neighborhoods as villages.* Neighborhoods will function as villages, offering opportunities to live, work, shop, play, and interact in a neighborhood setting. Neighborhood-oriented commercial activity will be encouraged in well-defined village centers (P. 40, policies).
- *Tourism.* Roanoke will promote tourism for the City and the region (p. 59,

Policies).

The *Grandin Court Plan*, adopted as a component of *Vision 2001-2020*, delineates the subject property as a *single-family residential, medium density* future land use. Pertinent highlights from the Economic and Residential Development portion of the plan include the following:

- Support development of compact village centers in Grandin Court and encourage appropriate development in them. Most businesses will be neighborhood serving, but village centers will ideally contain some larger-market businesses. These commercial areas should not expand beyond their current boundaries.
- Parking is recognized as a necessity, but should not be allowed to dominate any development. Parking should be located primarily on-street. Zoning regulations should consider the availability of on-street parking when determining appropriate levels of on-site parking. Where additional parking is warranted, it should be located to the rear or side of buildings

Vision provides a general direction for neighborhoods as villages, encouraging opportunities to expand tourism within the City of Roanoke and more broadly in the Roanoke Valley. The neighborhood plan provides further direction related to the importance of preserving the traditional character of the neighborhood, while encouraging home ownership.

As presented, the use of a portion of the single-family dwelling as a homestay establishment is generally consistent with the general policy of *Vision*. The proposed use is further consistent with the neighborhood plan as no changes will be made to the structure and the ability to supplement income will help offset living costs and promote home-ownership. The predominant use of the property, based on the intensity of operation listed in the application, will appear as operation of a family occupying the dwelling unit, and there are adequate safeguards in place to further protect neighborhood character, should the use become a nuisance to adjoining residents.

2A15004

Special Exception Application

Planning Building and Development
Room 166, Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Phone: (540) 853-1730 Fax: (540) 853-1230

Application Checklist: ☐ Application Form
☐ Written Narrative
☐ Development Plan
☐ Elevation
☐ Filing Fee

ROANOKE
RECEIVED

SEP 10 2015

Date: September 2, 2015

Property Information:

Street Address: 3127 Woodlawn Ave. SW

Official Tax No(s): 1560618

Size of Property (acres or square feet): 13952

Base Zoning District: R-7 Overlay Zoning District:

Request for a special exception as set forth in Section 36.2- 311 Zoning Code of the City of Roanoke (1979), as amended.

Briefly describe the special
exception request:

Would like home day exemption for
Airbnb

Applicant Information:

Name: Christy Duhilly Phone Number: 540-797-4378

Address: 1128 Deer Path Ln. Moreta VA E-Mail: mduhilly@msn.com

Applicant's Signature: _____

Owner Information:

Name: Mary C. Duhilly Phone Number: 540-797-4378

Address: 1128 Deer Path Ln. Moreta VA E-Mail: mduhilly@msn.com

Owner's Signature: _____

Application accepted as submitted in accordance with the provisions of Chapter 36.2, Zoning Code of the City of Roanoke (1979), as amended.

Secretary to the Board's Signature

9/10/15
Intake Date

10/14/15
Public Hearing Date

Special Exception Application for Homestay

3127 Woodlawn Avenue SW, Roanoke

We would like to continue running short term vacation rentals through our 3 bedroom furnished home. We have two bedrooms with a full bath on the first floor dedicated to our guests. They also have access to all of the first floor living areas. We are requesting the maximum number of guests allowed of four.

I, Mary C. (Christy) Dutilly will be staying overnight when future guests book stays.

We have exceptional off street parking for a city residence can easily accommodate 5 or 6 cars. Please see photo. No street parking would ever be needed to accommodate these guests.

We have had wonderful guests largely families and professionals who have stayed with us. Two families have chosen to move to Roanoke after exploring the area and a stay at our home. Others have suggested they would like to.

We are not aware of any problems for the neighbors or the neighborhood. In fact, our closest neighbor has enjoyed the comings and goings and has even invited some of our guests to sit and visit on her back porch.

We have had extra income with which to make repairs and upgrades to the home which we would not have in the past. We have plans to do more.

Lastly, I have hired a single mom to help with cleaning and laundry. She now has a nice extra income and she was able to handle an unexpected expense much more easily.

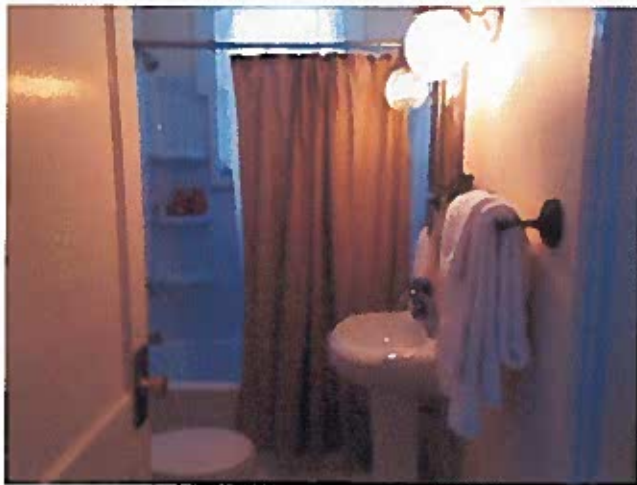
I truly believe the Airbnb rental model is an opportunity for economic development in the city of Roanoke. I hope we continue to work on this together to mitigate any potential inconveniences and encourage social and economic benefits for the city and our citizens.

Thank you for your consideration,

Christy Dutilly

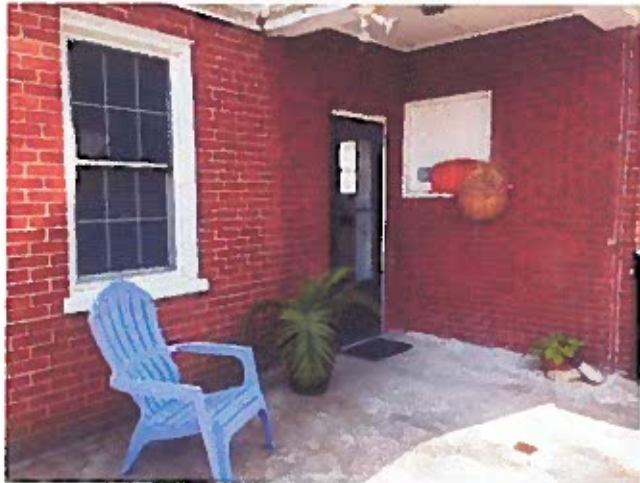
Jillian,

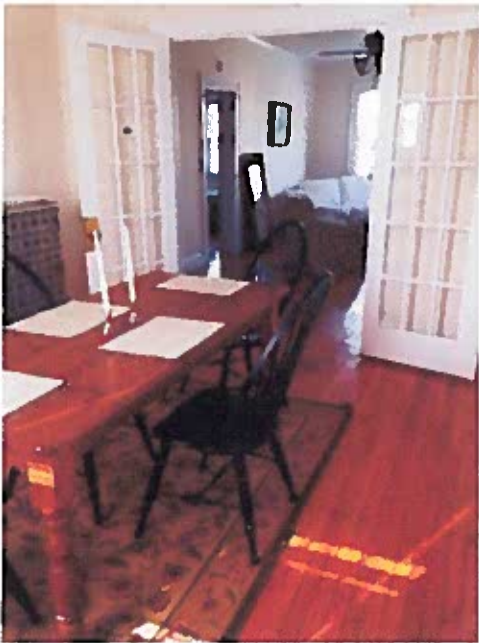
A few photos of bedrooms and bath for guests.
Christy Dutilly



Sent from my iPhone

A few photos of living areas available to guests.
Thanks,
Christy






























Sent from my iPhone

3127 WOODLAWN TAX MAP 1560618



ATTACHMENT A ZONING MAP EXCERPT 3127 WOODLAWN AVE. SW

Legend

-  Subject Property
-  Conditional Zoning
- Base Zoning District**
 -  Residential-Agriculture, RA
 -  Residential Single-Family, R-12
 -  Residential Single-Family, R-7
 -  Residential Single-Family, R-5
 -  Residential Single-Family, R-3
 -  Residential Mixed Density, RM-1
 -  Residential Mixed Density, RM-2
 -  Residential Multifamily, RMF
 -  Mixed Use, MX
 -  Commercial-Neighborhood, CN
 -  Commercial-General, CG
 -  Commercial-Large Site, CLS
 -  Downtown, D
 -  Institutional, IN
 -  Recreation and Open Space, ROS
 -  Urban Flex, UF
 -  Light Industrial, I-1
 -  Heavy Industrial, I-2
 -  Airport Development, AD
 -  Mixed Use Planned Unit Development, MXPUD
 -  Institutional Planned Unit Development, INPUD
 -  Industrial Planned Unit Development, IPUD
 -  Floodplain Overlay, F

0 20 40 80 Feet
1 inch = 100 feet

